

3.3 LOCATION OF MOTOR VEHICLE SERVICES

Facilities for motor vehicle service, rental, or repair shall not be granted a Special Permit except in conformity with the following:

- 3.3.1 No vehicular entrance or exit shall be located within 25 feet of a residential district or the sideline of an intersecting street.
- 3.3.2 No vehicular entrance or exit shall be located within 400 feet of the nearest property line of any school, library, hospital, playground or religious institution, unless it is demonstrated by the applicant that special circumstances of the site or use effectively mitigate concern over the hazard.
- 3.3.3 There shall be adequate space off-street for not fewer than two cars to await service per filling position.
- 3.3.4 Automatic car washes shall provide space for not less than 10 cars per washing lane to queue off-street and, where waste water does not discharge directly into a public sewer, shall provide positive means of preventing water pollution. Water recycling requirements of the Gloucester Department of Public Works shall be complied with.

3.4 PORK CHOP SHAPED LOTS (Adopted 12/22/87)

3.4.1 Conditions for Issuance:

The Gloucester Planning Board may authorize Pork Chop Shaped Lots by Special Permit (SP) in cluster developments and in residential districts on streets in existence at the date of adoption of this Section, provided that the following conditions are met:

- a. That the site is an appropriate location for the proposed use and that the character of adjoining uses will not be adversely affected.
- b. That the minimum lot area of the Pork Chop Shaped Lot is at least two times the minimum lot area required in the zoning district in which the Pork Chop Shaped Lot is located, except that the portion of the lot to the way shall not be included in the lot area calculation. (Amended 12/8/98)
- c. That safe and adequate vehicular access can be provided on said lot, without easements, from the street frontage to the principal building on the lot.
- d. That the width of the Pork Chop Shaped Lot measured at the shortest distance between side lot lines is no less than forty feet (40') at any point between the street and the existing or proposed building on the lot.
- e. That the depth of that portion of the lot which fails to satisfy the lot width requirements set forth in Section 3.2 shall not exceed a distance of two hundred fifty (250) feet from the street, measured along the proposed driveway.

f. All front, rear and side yard setbacks shall be the same as the yard setbacks of the zone in which the lot is located.

g. That no more than one principal building shall be located on a lot.

h. That there is not more than one (1) other Pork Chop Shaped Lot with frontage contiguous to it.

3.4.2 Procedure for Special Permits:

The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Laws Chapter 40A and Section 1.4.2 of the Gloucester Zoning Ordinance.

3.5 COMMON DRIVEWAYS (Adopted 12/9/97)

3.5.1 Purpose

The purpose of this Ordinance is to enhance the safety and welfare of residents of common driveways and to clarify the rights and responsibilities of builders and residents of common driveways, and of the City of Gloucester, in order to improve the public safety along streets by reducing the number of curb cuts, to reduce the negative visual impact of multiple driveways exiting upon a street and to minimize negative impacts on natural resources.

3.5.2 Definition

Vehicular access, extending from a street, serving as a common vehicular access to more than one (1) but not more than four (4) residential lots is a common driveway, built in accordance with standards established in "Rules and Regulations Governing the Subdivision of Land in Gloucester, Massachusetts" where allowed by Special Permit. The driveway will lie entirely within the lots being served.

3.5.3 Prohibition

A common driveway which would serve more than four (4) residential lots is prohibited.

3.5.4 Scope

Common driveways may be allowed Scope by Special Permit and Plan Approval by the Planning Board for single and two-family residential use only. Where the proposed development constitutes a subdivision under the Subdivision Control Law, MGL, Chapter 41, sec. 81-K et seq., this Ordinance shall not apply. All lots associated with the use of a common driveway must provide off-street parking as indicated in Section 4.1 "Off Street Parking". A common driveway shall not become a public or private way. The City of Gloucester shall not be required to provide construction, reconstruction, maintenance, snowplowing, school bus pick or police patrols along a common driveway, unless by contract duly entered into by the City and all landowners served by the common driveway.

3.5.5 Conditions for Issuance

The Planning Board may authorize the use of common driveways to provide access to no more than four (4) individual lots of land through issuance of a Special Permit (SP) provided the following conditions are met.

a) Common driveways may not be used to satisfy zoning frontage requirements as defined in Section VI. Each lot served shall have lot frontage on a street which serves to satisfy lot frontage requirements as defined in Section VI.

1. No common driveway shall be extended or connected to any way other than at one point of intersection with a street providing frontage to the development.

b) All lots to be served by common driveway must meet the requirements of a lot as defined in Section VI. All dimensional requirements, as defined in the Zoning Ordinance, for lots served by a common driveway, including but not limited to, setback and dimension of front, side and rear yards, as measured in relation to the street serving as the legal frontage for the lots, shall be the same as would be required for those lots had they not shared a common driveway.

c) That common driveways are required to access over approved lot frontage as defined Section VI.

d) That each lot having access from an approved common driveway may be improved with no more than two (2) dwelling units and related accessory building and uses.

e) That if the common driveway provides access to two (2) OR MORE (no more than four) lots, the landowners of all residences served by a common driveway shall be granted a right-of-way. Such right-of-way shall be recorded at the Essex County Registry of Deeds within thirty (30) days of approval by the Planning Board, together with a statement of covenants as follows:

1. The common driveway shall at no time be used to satisfy frontage requirements under the Zoning Ordinance; and
2. the common driveway shall at no time become the responsibility or liability of the City of Gloucester; and,
3. each landowner served by the common driveway shall be liable and responsible in whole for the repair and maintenance of any portion of the common driveway to which they have the exclusive Right of Way, such as a spur serving solely one parcel; and,
4. each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway to which more than one landowner hold a Right of Way.

f) A covenant shall be entered into between the owner or developer and the City in a form acceptable to the Planning Board prohibiting the sale of lots and erection of building except for lots approved and/or prior to the adoption of this Ordinance, until such time as the common driveway has been constructed in accordance with the approved plan.

g) Common driveways shall provide access to the lots from the street on which the lots served have their frontage and must observe a twenty-five (25) foot setback from the sideline which the lot of origin shares with a lot not served by the common driveway. The Planning Board may waive this requirement if necessary.

h) That common driveways be constructed in accordance with the standards established in "Rules and Regulations Governing the Subdivision of Land in Gloucester, Massachusetts".

3.5.6 Procedure for Special Permits

The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Law, Chapter 40A and Section 1.4.2.2, City Council Procedure for Special Permits of the Gloucester Zoning Ordinance.

SECTION IV GENERAL REGULATIONS

4.1 OFF-STREET PARKING

4.1.1 Intent and Application of Parking Requirements

(a) It is the intention of this Ordinance that all new structures and new building and land uses be provided with sufficient off-street parking spaces to meet the needs of persons making use of such structures and land uses. No permit shall be issued for the erection of a new structure or the enlargement or change of use of an existing structure unless the plans show the specific location and size of the off-street parking required to comply with the regulations set forth in this Ordinance and the means of access to such space from public streets. In the event of the enlargement or change of use of an existing structure, the regulations set forth in this section shall apply only to the area added to the existing structure or to the building or part thereof having a change of use.

(b) Buildings, structures and land uses in existence on the effective date of this ordinance are not subject to these off-street parking requirements and may be rebuilt, altered or repaired, but not enlarged or changed in use without becoming subject to these requirements.

(c) Except for business and municipal uses which occupy more than 10,000 square feet of space and are located in buildings constructed after February 1, 1990, business and municipal uses need not provide off-street parking if they are located within 400 feet of a Municipal Parking Lot/Facility. (Amended 3/2/99)

(d) Residential uses situated above the ground floor in a structure which existed as of February 1, 1990, contains one or more permitted non-residential uses on the ground floor, and which is located in a Central Business (CB) Zoning District, need not provide off-street parking.

4.1.2 The following minimum number of parking spaces must be provided except as exempted above, and except that the Zoning Board of Appeals may issue a Special Permit for a lesser number upon demonstration by the applicant that such lesser number will serve the intent of these provisions:

(a) For residential structures: at least one off-street parking space shall be provided for each dwelling unit in the CB, VB, R-4 or CCD district and at least one and one-half off-street parking spaces shall be provided for each dwelling unit located in other districts. Such spaces shall be located on the same lot as the dwelling they serve. When the off-street parking space is in the form of a private garage, its location on the lot shall conform with the provisions of this Ordinance governing the erection of a structure intended for an accessory use.

(b) For hotels, motels, motor inns, boarding, lodging, or tourist homes: one space per guest unit plus one space per three employees. For dormitories or similar group living quarters, one space per bed.

(c) Places of assembly, not including churches and places of worship, but including all other places customarily involving assembly, such as, but not in limitation thereof, auditoriums, theaters, assembly halls, funeral homes, bowling alleys, fraternal quarters, and other places of assembly, shall provide for each 100 square feet of floor area exclusive of basement or for each four seats, whichever shall be greater, one off-street parking space.

(d) For every retail store, professional and public building, and private educational building, one off-street parking space shall be provided for each 200 square feet of ground floor area not used for bulk storage, and one off-street parking space for each 400 square feet of floor area not used for bulk storage above the ground floor. For restaurant or food-service uses, one additional off-street parking space shall be provided on or adjacent to the site for every three (3) persons that may be served by the establishment at one time.

(e) For industrial establishments, one off-street parking space shall be provided for each motor vehicle in connection with the operation of such establishment, and in addition, one off-street parking space for each three (3) employees on the largest shift.

(f) For Schools, Hospitals, Sanitaria, Nursing Homes, and similar places, one off-street parking space shall be provided for each 500 square feet of floor space exclusive of basements.

(g) Casino boat water uses: one off-street parking space required for every four passengers (including crew) based on the maximum allowable occupant load of the vessel. (Adopted 7/6/99)

4.1.3 Location of Parking Facilities

(a) Required off-street parking facilities shall be provided on the same lot as the principal use they are required to serve, with the following exceptions:

- 1) Required parking facilities for office buildings may be located on other lots if all spaces are within 500 feet of the entrance to the building to be served.
- 2) Industrial districts and in the case of institutional uses in any district, the required parking facilities may be provided on other lots within a reasonable distance from the building to be served. The reasonable distance to be determined by the Building Inspector.
- 3) In the case of a dormitory of a non-profit educational institution, the required parking facilities may be provided on other lots not more than three thousand feet away from the dormitory to be served.

4.1.4 Design and Layout of Required Parking Facilities

(a) General Provisions

1. The following are not subject to the design and layout standards set forth in this Section 4.1.4:

- a) parking spaces required for single-family and two-family dwellings;
 - b) parking spaces required for the expansion of a building in existence on April 1, 1991 if:
 - i) the expansion is less than 50% of the floor area of the existing building, or
 - ii) the expansion would require the creation of no more than ten additional spaces.
2. No accessory off-street parking space shall be permitted within the required front yard of a lot in any residential district.
3. Parking areas shall be designed so as to allow each vehicle to enter and leave each parking space without requiring the moving of any other vehicle (except for an area providing valet parking or a parking lot in which spaces are assigned to occupants of the building served by that lot) and so as not to require the backing of a vehicle onto a collector street.
4. Required off-street parking facilities may be enclosed or may be open. If such facilities are open, they shall be graded, surfaced with bituminous concrete, cement concrete or other non-dusting all weather surface, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion or excessive water flow onto public ways or adjoining property.
5. Parking areas shall not be used for automobile sales, gasoline sales, dead storage, repair work, dismantling or the servicing of vehicles of any kind.
6. Any light fixture used to illuminate parking areas shall be shielded so as not to shine on streets or adjacent properties.
7. No parking stall, except those contained in a parking structure that is below the mean original grade of the lot (determined at the street line), shall be located within one foot of a sidewalk, street, or external property line.
8. Parking areas which contain more than five off-street parking spaces and which are located within ten feet of the boundaries of the property shall be equipped with a barrier, curbing, fence or low wall sufficient to confine vehicles entirely within the property and to protect any plantings and landscaping.
9. Parking areas containing more than five off-street spaces shall be marked so as to clearly indicate the space to be occupied by each motor vehicle, in accordance with the dimensions specified in 4.1.4(b). Such markings shall be maintained so as to be plainly visible.

(b) Parking stall dimensions:

	Parallel Parking		Angle & Perpendicular Parking	
	Width	Length	Width	Length
Standard	8	22	9	18
Compact	7	20	8	16
Handicapped	10	22	12	18

Parking spaces for compact automobiles shall be permitted only in parking lots or garages having 10 spaces or more, shall be appropriately and clearly marked, and shall comprise not more than 30% of the spaces provided.

(c) Parking Aisle Dimensions:

For one-way traffic, the minimum width of aisles providing access to stalls shall be 12 feet for parallel and angle parking, and 14 feet for perpendicular parking. For two-way traffic, the minimum width of aisles providing access to stalls shall be 20 feet for parallel and angle parking, and 24 feet for perpendicular parking.

(d) Access:

1. The minimum width for entrance and exit drives to parking areas shall be the same as required for parking aisles, per 4.1.4 (c) of this section. The maximum width for entrance and exit drives is 25 feet.
2. No portion of any entrance or exit driveway to or from a parking area shall be closer than 20 feet to the curb line of an intersecting street, and all such driveways shall be separated from each other by at least 30 feet.

4.2 OFF-STREET LOADING

4.2.1 Intent

(a) All new business and industrial buildings and all enlargements of existing buildings requiring the delivery of goods as a substantial part of their function must be provided with necessary space for off-street loading as hereinafter set forth. No application for a permit for the erection of such new buildings shall be approved unless it includes a plan for off-street loading facilities in accordance with the regulations set forth in this Ordinance.

(b) Buildings, structures and land uses in existence on the effective date of this Ordinance, are not subject to these off-street loading requirements, and such buildings may be rebuilt, altered or repaired, but not expanded, without becoming subject to these requirements.

(c) Where a building existing on the effective date of this Ordinance is altered or extended in such a way as to increase or enlarge the gross floor area, only the additional gross floor area shall be counted in computing the off-street loading requirements.

(d) Where the computations of required loading bays result in a fractional number only the fraction of one-half or more shall be counted as one.

4.2.2 Table of Loading Requirements

Off-street loading facilities shall be provided for the following specified uses:

<u>Types of Uses</u>	<u>Number of Bays</u>
(a) Retail, wholesale and industrial operations except freezers, cold storage holding buildings, and warehouses with gross floor area of more than 5000 square feet but not more than 40,000 square feet.	One Loading Bay
Hospitals, institutions and similar buildings requiring delivery and with a floor area of 30,000 square feet or less.	One Loading Bay
For each additional 50,000 square feet of floor area in each case	One Loading Bay
(b) Freezers, cold storage holding buildings and Warehouses shall provide off-street loading bays as follows: One bay for buildings of less than 5,000 square feet of storage space; two bays, from 5,000 to 10,000 square feet; three bays; 10,001 to 18,000 square feet; four bays, 18,001 to 35,000 square feet; and one bay for each additional 50,000 square feet. Loading bays shall conform to the following minimum measurements: 15 feet by 50 feet on the ground with a clear height of 14 feet.	

4.2.3 Location and Layout of Loading Facilities

(a) Each loading bay, except as above specifically provided, shall have a minimum dimension of not less than 10 feet in width, 25 feet in length, 12 feet in height and may be located either within a building or outside and adjoining an opening in the building.

(b) In case trucks, trailers, or other vehicles larger than the dimensions of the minimum requirements habitually serve freezers, warehouses, or other commercial buildings, additional parking spaces shall be provided so that such vehicles park or stand completely off the street while waiting to be loaded or unloaded.

(c) All accessory driveways and entrance ways shall be graded, surfaced, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion, or excessive water flow across public ways.

(d) Loading facilities shall not be reduced in total extent or usability after their installation, except when such reduction is in conformity with the requirements of this Ordinance. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance or hazard or unreasonable impediment to traffic.

4.3 SIGN REGULATIONS

The purpose of this ordinance is; to provide for a wide range of signage by right; to encourage safe, effective, informative signage; to protect property values, and to minimize the visual impact of signage

4.3.1 ADMINISTRATION.

1. Sign Permits. Except as otherwise herein provided, no person shall erect, alter, modify or move any signs as herein defined without first applying for and obtaining a sign permit from the Building Inspector.
2. Prohibited Signs. All signs not expressly permitted under this section or exempted from regulations under this section are prohibited. Billboards and signs painted on roofs are prohibited in all Districts.
3. Nonconforming Signs. All signs lawfully existing at the time of passage of this section that do not conform to the terms of this section may be continued subject to the following requirements:
 - (a) Determination of Conformance. In the event of a dispute whether a sign was lawful at the time of passage of this section, the Building Inspector shall determine the facts and the law governing use of such sign, which written determination shall be final.
 - (b) Maintenance and Repair of Existing Nonconforming Signs. No sign existing at the time of passage of this ordinance shall be substantially altered or enlarged in any way, except for routine maintenance or repair of damage or minor change permitted by the Building Inspector. Routine maintenance or repair of damage shall not include replacement of the entire sign, which shall be treated as a substantial alteration prohibited under this subsection. The changing of letters on nonconforming signs designed for changeable messages shall not be considered an alteration as long as no other change is made to the sign.
 - (c) Conformity or Removal of Nonconforming Signs. Nonconforming signs shall be made to conform or shall be removed whenever a Major Project Review is sought for a property to which the nonconforming signs are appurtenant.
4. Maintenance of Signs. The sign must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in such safe conditions so as not to be detrimental to the public health or safety; or constitute a distraction or obstruction that may contribute to traffic accidents.
5. Illumination. Signs that are internally illuminated or externally illuminated or whose light source is part of the sign display, as is the case with exposed-tube, gaseous-type signs and signs with letters or decorations comprising rows of incandescent bulbs are regulated as follows:

(a) Signs shall be illuminated only by steady, stationary light without causing harmful glare for motorist, pedestrians, or neighboring premises.

(b) Except for indicators of time and temperature, no sign or part of any sign shall either be illuminated more than one hour after the premises is closed, or 11:00 p.m., whichever is later, nor shall any illuminated sign flash, move or make noise.

(c) An illuminated sign is allowed to have an average face brightness not to exceed thirty (30) feet. The applicant may be required to provide an engineer's report to verify the average face brightness.

6. Awning Signs. An awning shall be made of solid or opaque woven material which does not consist of fluorescent or transparent material. The awning may be indirectly illuminated in a manner not distractive to motorist or pedestrian.

7. Off-Premise Signs. A business is allowed to advertise an off premise activity, event or business pursuant to the sign provisions required in a district or for any business.

8. Roof Signs. A roof sign shall not have a vertical dimension exceeding three (3) feet, shall not project above the highest part of the roof ridge line and shall not exceed the maximum permitted area for a single sign in the zoning district.

9. Detached Sign Setbacks. Signs shall be located within the required front yard, but not within a required side yard, rear yard or within or over any street either public or private.

4.3.2 REGULATIONS APPLICABLE TO SIGNS IN NONRESIDENTIAL DISTRICTS

	CCD	CB	NB	EB	VB	MI	GI	BP
1. Single-tenant Building or Single Use Lot.								
a. Maximum Sign Area (sf) for a single sign, one attached and one detached for each street orientation.	16	30	16	30	16	30	30	30
b. Maximum Total Sign Area (sf).	32	60	32	60	32	60	60	60
c. Maximum Detached Sign Height (sf).	12	20	12	20	12	20	20	20
2. Multi-tenant Building or Multiple Use Lot.								
a. Maximum Sign Area (sf) for a single sign, attached or detached.	16	30	16	30	16	30	30	30
b. Maximum Total Sign Area (sf), one detached sign for each street orientation, attached signs not to exceed ten (10%) of the total surface area of the building facade parallel to the front yard.	10%	10%	10%	10%	10%	10%	10%	10%
c. Ladder Sign for each tenant or use, attached to the main permitted detached sign, Maximum Sign Area (sf).	6	6	6	6	6	6	6	6
d. Maximum Detached Sign Height (f).	12	20	12	20	12	20	20	20
3. Illumination.								
a. Maximum Sign Area (sf) for a single sign, internally illuminated sign	N	12	N	12	N	12	12	12
b. Maximum Sign Area (sf) for a single sign, externally illuminated sign	16	30	16	30	16	30	30	30

4.3.3. SIGNS AND MURALS PERMITTED IN ADDITION TO THE TOTAL MAXIMUM SIGNAGE ALLOWED IN NONRESIDENTIAL DISTRICTS.

	CCD	CB	NB	EB	VB	MI	GI	BP
1. Bulletin or Message Sign, one attached, Maximum Sign Area (sf).	10	10	10	10	10	10	10	10
2. Gloucester Harbor or waterfront orientation, one attached sign, Maximum Sign Area (sf).	N	30	16	30	N	30	N	N
3. Temporary Sign, allowed with permission of Building Inspector, up to thirty consecutive days, Maximum Sign Area (sf).	10	10	10	10	10	10	10	10
4. Mural, one painted or attached to a building wall, Maximum Area (sf).	32	32	32	32	32	32	32	32

4.3.4 REGULATIONS APPLICABLE TO SIGNS IN RESIDENTIAL DISTRICTS

	R-1	R-RA	R-RB	R-2	R-2A	R-3	R-4
1. Maximum Sign Area (sf) for a single Sign.							
a. Residential Use.	2	2	2	2	2	2	2
b. Non-residential Use.	10	10	10	10	10	10	10
2. Maximum Total Sign Area (sf).	10	10	10	10	10	10	10
3. Maximum Detached Sign Height (f).	12	12	12	12	12	12	12

4.3.5. OTHER PERMITTED SIGNS AND DEVICES.

All Districts

1. Federal, state, county, or municipal flags or insignias of any government, public safety, identification not to exceed one square foot. Historical markers.	Yes
2. On or in rolling stock, on fuel pumps.	Yes

4.3.6 APPEALS

Appeals of the Building Inspector's decision and provisions of this section are referred to the Zoning Board of Appeals.

4.4 NOISE, LITTER AND SMOKE STANDARDS

- 4.4.1 No activity shall be permitted in any district unless it can be demonstrated that its operation will be so conducted that the following standards will be met, or unless specifically exempted from some of the standards by Section 2.3 or elsewhere in this Ordinance.

Where future compliance with these standards is questionable, the Building Inspector shall require a report on probable compliance, to be furnished at the expense of the applicant. Estimates of compliance shall be based upon engineering analysis, example of similar facilities or other acceptable method prepared and certified by a qualified professional engineer. Where indicated by such report, permits may be issued subject to conditions limiting operations and equipment.

However, the Board of Appeals may grant a Special Permit for an exception for activities not meeting these standards, in cases where the Board determines that no objectionable conditions are thereby created for the use of other affected properties.

- 4.4.2 No noise, sound from public address or other amplification systems, vibration, odor or flashing shall be normally perceptible more than 400 feet from the premises if in the GI or BP district, more than 200 feet from the premises if in the CB, VB or EB districts, and more than forty (40) feet from the premises if in a NB, CCD or Residence District. Interferences originating in business or industrial districts shall not normally be perceptible more than 100 feet within a residential district.
- 4.4.3 Cinders, dust, fumes, gases, radiation or trash, or other waste, shall be effectively confined to the premises or disposed of.
- 4.4.4 Smoke density shall not exceed #2 on the Ringelmann scale for more than 10% of the time, and at no time shall exceed #3 on that scale.
- 4.4.5 No process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- 4.4.6 Operation at any time such that these standards are violated, subsequent to issuance of a permit on the grounds that they would be met, shall constitute a zoning violation.

4.5 SCREENING REQUIREMENTS

- 4.5.1 The following uses shall be screened from any adjacent residential district or use or public way from which they would otherwise be visible.
- (a) Junk Yards
 - (b) Contractor's Yards
 - (c) Mobile Home Park or Campground

4.5.2 The following uses shall be screened from any adjacent residential district or use or State Highway from which they would otherwise be visible:

(a) Parking area for four or more automobiles, or two or more commercial vehicles, except for retail sale of such vehicles.

(b) Open storage, whether as principal or accessory use of premises.

(c) Loading or service areas.

4.5.3 The following uses shall be screened from any adjacent residential district or use from which they would otherwise be visible:

(a) Outdoor sales display area.

(b) Commercial outdoor recreation, such as golf driving ranges or drive-in theaters.

4.5.4 "Screening" in this context shall mean a wall, sightly fence, or an area four feet wide or more, densely planted with trees or shrubs five feet or more in height.

SECTION V SPECIAL REGULATIONS

5.1 Mobile Homes, Trailers and Campers

- 5.1.1 Placement and occupancy of mobile homes, trailers and campers shall be in accordance with Section 2.3 and with the following:

Mobile Home

May be stored:	In Mobile Home Park
May be occupied:	In mobile home park or for a period not to exceed 30 days in any 12 months, either accessory to a residence, observing yard requirements for accessory structures, or in conjunction with a carnival, blood bank or like function.
Minimum space lease term:	One month

Travel Trailer Camper

May be stored:	In campground, or accessory to a residence, observing yard requirements for accessory structures; or in a public area designated for such use.
May be occupied:	In campground; or in a public area designated for such use; or for a period not to exceed 30 days in any 12 months, residence, observing accessory structures, or in conjunction with a carnival, blood bank, or like function.
Minimum space lease term:	None

Boat Trailer, Horse Trailer & Utility Trailer

May be stored:	In a public area designated for such use; or accessory to a residence, observing yard requirements for accessory structures.
May be occupied:	Not applicable
Minimum space lease term:	Not applicable

Boat

May be stored:	In a public area designated for such use; or accessory to a residence, except that no boat over twenty-five feet (25') in length may be stored within the front yard setback for a residential lot.
May be occupied:	Not applicable
Minimum space lease term:	Not applicable

5.1.2 Mobile Home Parks

Mobile home parks shall be operated only under license from the Board of Health and shall conform to the following minimum requirements:

- (a) Parcel minimum area to be ten acres.

(b) Each plot shall be serviced with electricity, water, and sanitary drainage suitable for permanent connection.

(c) No mobile home shall be placed within 200 feet of a street line, or within 60 feet of any other lot line.

(d) The development shall comply with all requirements of "An Ordinance to Regulate Trailer Coaches and Trailer Coach Parks," ordained May 21, 1959.

5.1.3 Camp grounds shall be operated only under license from the Board of Health, and shall conform to the following minimum requirements:

(a) Parcel minimum area to be ten acres.

(b) If each plot is not serviced with water and sanitary drainage, common sanitary facilities meeting all requirements of the Gloucester Board of Health shall be provided.

(c) No unit for overnight occupancy shall be placed within 200 feet of a street line, or 60 feet of any other lot line.

(d) The development shall comply with all requirements of Article VIII of the Sanitary Code for the Commonwealth of Massachusetts.

5.1.4 Mobile Home Parks and Camp Grounds shall be reachable via right-of-way not less than 40 feet in width. Pavement widths within a Mobile Home Park or Camp Ground shall be not less than 20 feet in width.

5.1.5 This Ordinance shall not prohibit the owner and occupier of a residence which has been destroyed by fire or other natural holocaust from placing a mobile home for a period not to exceed twelve (12) months, while the residence is being rebuilt, subject to the provisions of the State Sanitary Code.

5.2 EARTH FILL AND REMOVAL REGULATIONS

5.2.1 General

The removal or filling of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel shall be allowed only by special permit from the City Council in accordance with sections 5.2.2 through 5.2.8, except under the following circumstances:

(a) When such removal or placement is necessarily incidental to or in connection with the following:

- i) construction on the same site of a structure for which a building permit has been issued within the past six months, or
- ii) for grading or otherwise improving the premises of which such building is a part, or
- iii) for construction pursuant to an approved subdivision;

(b) When such removal or placement involves the removal from the premises or redistribution within the premises of less than 50 cubic yards during any twelve month period; or a greater amount if, in the opinion of the Building Inspector, the nature of the activity is such that it will not pose a detriment to the abutting properties; in no instance, however, shall the amount of material be greater than 200 cubic yards;

(c) When such removal or placement is in accordance with the terms of an Order of Conditions or Determination of Applicability issued by the Conservation Commission pursuant to M.G.L. Ch. 131, s.40, and Article 12 of the Gloucester Code of Ordinances;

(d) When placement is for landscaping or gardening purposes and the material to be placed consists of peat moss, tree bark, wood chips, or other vegetative mulch, loam, or crushed stone or gravel in a walkway, driveway, or parking area.

All fill and removal operations shall conform to the national standards for the stabilization of slopes and materials (Soil & Water Conservation guidelines), a copy of which is available in the office of the Community Development Department and the Building Inspector's Office.

5.2.2 Permit from the City Council

Written application for a Special Permit must be made to the City Council. The following shall be conditions for such issuance:

(a) The application shall be accompanied by a plan describing the premises and the proposed operation. If involving more than three acres or 1,000 cubic yards, the plan shall be prepared by a registered Land Surveyor or Engineer, showing all man-made features, property lines, names and addresses of all abutters, topography at 5 foot contour intervals of the site and all land within 100 feet of the area from which the above material is to be removed, together with the grades below which no excavation shall take place, and above which no filling shall take place, and the proposed cover vegetation and trees. The application shall also be accompanied by a soils engineering report.

(b) A performance bond in an amount determined by the City Council has been posted in the name of the City assuring satisfactory performance in the fulfillment of the requirements of this Ordinance and such other conditions as the City Council may impose as conditions to the issuance of its permit.

(c) Before granting a permit, the City Council shall give due consideration to the location of the proposed earth removal or fill operation, to the general character of the neighborhood surrounding such location and to the general safety of the public on the public ways in the vicinity.

5.2.3 Fill

Temporary stockpiling of fill may be allowed prior to the issuance of a special permit, upon the finding of the Building Inspector that such temporary stockpiling will not be detrimental to the abutting properties; in no instance, however, will such stockpiling be allowed for a period exceeding ninety (90) days.

During fill operations no slope shall exceed one (1) foot vertical rise to one and one-half foot horizontal distance or the natural angle of repose of the material in a dry state, whichever is the lower, except undisturbed ledge. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

5.2.4 Removal

Removal operations shall be subject to the following conditions:

- (a) Earth removal shall take place at the grades specified on the plan accompanying the permit application.
- (b) During removal operations no slope shall exceed one (1) foot vertical rise to one and one-half foot horizontal distance or the natural angle of repose of the material in a dry state, whichever is the lower, except undisturbed ledge.
- (c) Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.
- (d) Soil shall not be disturbed within one hundred (100) feet of the boundaries of the premises, excepting at the conclusion of operations if required in order to improve the overall grading.
- (e) All trucking routes and methods will be subject to approval by the Chief of Police.
- (f) All roads leading from earth removal areas to City streets shall be treated with oil, stone, or other suitable material to reduce dust and mud for a distance of 200 feet from said street. Roads leading from earth removal areas to City streets shall be constructed with a curve so as to help screen the operation from view.

5.2.5 Restoration

Forthwith following the expiration or withdrawal of a permit, or upon voluntary cessation of operations, or upon completion of removal in a substantial area, that entire area shall be restored as follows:

- (a) All land shall be so graded that no slope exceeds one (1) foot vertical rise in three (3) feet horizontal distance and shall be so graded as to safely provide for drainage without erosion.
- (b) All boulders larger than one-half cubic yard shall be removed or buried.
- (c) The entire area excepting exposed ledge rock shall be covered with not less than four (4) inches of good quality loam, which shall be planted with cover vegetation adequate to prevent soil erosion, using either grasses or ground cover, depending upon conditions.
- (d) Bond shall not be released until sufficient time has lapsed to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

5.2.6 Additional Conditions

The City Council may set conditions in addition to the above, including but not limited to: duration of the permit, hours of the day during which removal may take place, hours during which vehicles may leave the premises, and trees to be planted.

5.2.7 Renewal or Renovation of Permit

Permits will be issued for one year periods only, but a permit may be renewed upon application without a public hearing. Prior to renewal, inspection of the premises shall be made by the Building Inspector to determine that the provisions of this Ordinance are being complied with. The City Council, after hearing and proof of violation of this Ordinance, shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with Section 5.2.5.

5.2.8 Removal Activities Prior to this Ordinance

Earth removal activities in lawful operation at the time this Ordinance is adopted may continue until abandoned for more than 12 consecutive months, provided that within 60 days after the effective date of this Ordinance the owners of such premises shall submit to the City Council a plan and application as required in Section 5.2.2.

5.3 HOME OCCUPATIONS

Customary home occupations are permitted if conforming to the following conditions:

- 5.3.1 No more than 25% of the floor area of the residence shall be used for the purpose of the home occupation or the professional use.
- 5.3.2 Not more than one person, not a member of the household, shall be employed on the premises in the home occupation.
- 5.3.3 There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation except for an identification sign not in excess of two (2) square feet in area, nor shall there be any other variation from the residential character of the principal building.
- 5.3.4 No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced. (See Section 4.4)
- 5.3.5 Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
- 5.3.6 Parking generated shall be accommodated off-street, other than in a required front yard.
- 5.3.7 An occupancy permit shall be required and may be issued only by the Zoning Board of Appeals after Public Hearing and with such restrictions as the Board deems proper.

5.4 DUMPING AND FILLING

No garbage, rubbish, refuse or other waste material shall be dumped or incinerated in any District, home incineration excepted, and no land shall be used as a dump or fill area, without authorization for any use covered by the provisions of Section 150A of Chapter III of the General Laws, as inserted by Chapter 310 of the Acts of 1955, with respect to any site unless it has been assigned by the Board of Health to such use in accordance with the provisions of said Section.

5.5 LOWLAND REQUIREMENTS

- 5.5.1 Sections 5.5.2 and 5.5.3 shall not apply to lands bordering Gloucester Harbor north and east of a line from the mouth of Blynman Canal to the intersection of Farrington Avenue and Eastern Point Boulevard.
- 5.5.2 No building permit for a principal building shall be issued for construction on land less than 10' elevation above U.S.G.S datum except on approval of a Special Permit for an exception by the City Council. Such Special Permit shall be issued only if it is demonstrated by the applicant that the proposed development will pose no hazard to the health or safety of the occupants thereof.
- 5.5.3 Without limiting the generality of the foregoing, the following are presumed to be hazardous to health or safety:
- (a) Floor level of any structure for human occupancy less than 12 feet elevation.
 - (b) Individual sewage disposal systems subject to inundation in the event of coastal flooding to ten feet elevation.
 - (c) Methods of filling or excavation subject to displacement by coastal flooding to ten feet elevation.
 - (d) Water supplies subject to interruption or contamination in the event of coastal flooding to ten feet elevation.
- 5.5.4 No person shall remove, fill, dredge or build upon any bank, marsh, swamp, or flat bordering on coastal or inland waters or any other land subject to tidal action or coastal storm flowage without a Special Permit from the City Council. Such permit shall be issued only upon determination that the requirements of the Hatch Act (G.L. Ch. 131, Sec. 40) has been satisfied, and that such removal, filling, dredging or construction will not pose a hazard to health or safety, and will be so executed as to conserve the shellfish and other wildlife resources of the City. (Amended 10/26/99)

5.6 HOUSING FOR THE ELDERLY

On Special Permit from the City Council, the requirements of this Ordinance may be reduced as follows for multi-family dwellings in which two-thirds or more of the units are reserved through contract, covenant or other binding legal device for occupancy by persons 62 years or older, and where construction provides features specifically designed for the elderly, including all public areas and entrances and at least 5% of all units designed to accommodate wheel chairs and provision of special function rooms such as clinics or social rooms. Reductions shall apply only to units having two or fewer bedrooms, equipped with bathtub and toilet grab bars, emergency signals, out-swinging doors and other features for the elderly.

5.6.1 Parking requirements per elderly dwelling unit may be reduced to not less than one-third that otherwise required by Section 4.1.

5.6.2 Required lot area and open space shall be reduced to $(1-.65 E/T)$ times that required by Section 3.2, where E is the number of dwelling units reserved and equipped for the elderly and T the number of dwelling units.

5.7 MAJOR PROJECTS (Subsections amended 6/20/00)

5.7.1 Applicability. Any application for a multi-family dwelling if required on a Special Permit and involving 21 or more bedrooms, or 11 or more dwelling units, or if abutting a parcel for which a permit for multi-family dwelling has been issued in the past 36 months, shall be considered a Major Project, and shall comply with all requirements below. Any application for a hotel, motel, or motor inn resulting in 30 or more guest units (existing plus proposed) shall also be considered a Major Project, and shall comply with all requirements below. A Shopping Center (as defined herein) shall be considered a Major Project and shall comply with all requirements below. Assisted Living projects of 11 dwelling units or greater shall be considered a Major Project and shall comply with all requirements in 5.7 except 5.7.5(f).

5.7.2 Application

Major Project applications shall be submitted in conformance with the requirements of Section 1.4.2.2.

(a) In addition to the information required under that Section, the developer shall submit photographs of the premises in relation to adjoining structures and to natural features, and for projects involving 50 or more dwelling units a simple block model of proposed buildings and topography. For projects not to be connected to municipal sewerage, percolation test reports shall be submitted. Required plans shall have been prepared by a registered Engineer, bear their respective seals and signatures, and also bear certifications by each that the materials were prepared by them or under their supervision for the site in question, and comply with all state statutes and local ordinances and regulations. Eight copies of the application and plans shall be submitted, plus a reproducible copy of the site plan.

5.7.3 Departmental Reviews

Forthwith upon their receipt, one copy of Major Project applications and plans submitted to the City Clerk for approval shall be transmitted by the City Clerk to the following for their review and report:

City Building Department
Public Health Department
Engineering Department

Public Works Department
Fire Department
Conservation Commission

The above shall report in writing to the Council regarding compliance of the proposal to existing state statutes and local rules, regulations, and ordinances, and regarding relationship of the proposal to matters within the Department or Commission's area of concern. No Special Permit shall be decided upon within twenty-one days of forwarding such plans without receipt of an advisory report thereon from all of the above Departments or Commissions.

5.7.4 Planning Board Review

Forthwith upon their receipt, one copy of Major Project applications and plans submitted to the City Council for approval shall be transmitted by the City Clerk to the Planning Board for their review and report regarding the Special Permit criteria below. The Planning Board may, when they deem it advisable, engage professional assistance, at the applicant's expense, for such review and report.

No Special Permit shall be decided upon within thirty-five (35) days of forwarding such plans without receipt of an advisory report thereon from the Planning Board. The Planning Board may require of the developer submission of sufficient data on hydrology, traffic, or other environmental impacts to allow determination of compliance with the Special Permit criteria of Section 5.7.5 and 5.14.4.

5.7.5 Special Permit Criteria

The following criteria shall be considered as guidelines by the Council in addition to those of Section 1.4.2.2(e) in acting upon Major Projects:

(a) Major Projects should have access from an arterial or collector street via ways serving not more than ten single-family homes.

(b) Where not connected to municipal sewerage, assisted living facilities, multi-family or hotel, motel or motor inn major projects should be so located that there is minimal danger of pollution, evidenced by reasonable grades at leaching areas, a percolation rate of ten minutes per inch drop or less, maximum ground water table at least four feet below the bottom of the disposal field, and location not less than 100 horizontal feet distant from the bank of any pond, stream, river, swamp, or marsh or from the Mean High Water line of adjoining tidal waters. All projects must comply with Gloucester Board of Health regulations and meet Massachusetts Title V Requirements.

(c) The site plan shall include the following: Access, drainage and utilities serving each structure meet functional standards equivalent to those established in the Gloucester Planning Board's adopted Subdivision Regulations; access via minor streets servicing single-family homes is avoided; parking areas are screened from public ways by building location, grading, or screening; lighting of parking areas avoids glare on adjoining properties; egress does not require backing onto any public way; major topographic changes or removal of existing trees are avoided. (Amended 6/20/00)

(d) All other requirements of the Zoning Ordinance and of all applicable building codes must have been satisfied. Specific attention is drawn to the requirements of the Subdivision Control Law, and the necessity of obtaining occupancy permits prior to occupancy of any building or portion thereof.

(e) Where a multi-family residential or assisted living facility use is proposed in a non-residential district a Special Permit will only be granted if the Council finds that:

1. The public good will be served;
2. The non-residentially zoned area would not be adversely affected; and,
3. That the uses permitted in the zone would not be noxious to the multi-family or assisted living use.

(f) The following criteria, in addition to the above, shall apply to Shopping Centers:

1. Shopping Centers should be so located that not more than ten residential structures existing at the time of application shall be within 300 feet of the proposed buildings, parking areas, and access drives.
2. Shopping Centers should be so located that annual average daily traffic is not increased 50% or more above current levels at any point more than 1000 feet from an expressway interchange, current levels as determined by the Gloucester Department of Public Works; and should be so located that resultant traffic is not above the capacity of roads and interchanges at level of service "C" at any point within one (1) mile of the premises using definitions and methods of estimation as outlined by the Highway Research Board Highway Capacity Manual, 1935, or later editions.
3. No part of any parking area or structure of a Shopping Center shall be built within 100 feet of the right-of-way line of Route 128 (but not ramps) or within 30 feet* of any other street. At least 75% of these reserved areas shall be planted or retained in vegetative cover.
*Except in CB district, none required.
4. Storm water leaching (recharge) basins, retention basins, or other devices as necessary should be employed in order that peak flows through existing drainage structures or channels are not in a 15 year storm increased more than 15% above current flows or caused to exceed design capacity of structures or channel capacity of streams or to cause flooding.

5. No egress onto an existing street shall be within 250 feet (centerline to centerline) of any other egress on the same side of street is serving 20 or more parking spaces or within 250 feet of the nearest point of an expressway interchange right-of-way or within 100 feet of the intersection of sidelines of intersecting streets. Egressing vehicles should have at least 400 feet visibility in each travel direction.
6. Outdoor lighting fixtures shall not be higher than 20 feet. No light overspill shall be bright enough to create discernible shadows off the premises.
7. All banks exceeding 15 degrees in slope resulting from site grading shall either be retained with a non-bituminous retaining wall, or covered with loam to a depth of four inches and planted with vegetative cover reasonably sufficient to initially prevent erosion.
8. The requirements of Section 5.2 Earth Removal Regulations and Section 5.5 Lowlands Requirements shall be met.
9. Parking shall conform to the requirements of Section 4.1 Off-Street Parking.
10. All open storage, parking, and loading or service areas shall be screened in accordance with the requirements in Section 4.5.
11. Shopping Center parking areas shall contain or be bordered within five feet by a least one tree per eight cars, trees to be of two inch caliper or larger, and if within the parking area to be planted in curbed soil plots allowing not less than 36 square feet of unpaved soil area per tree.
12. On the shopping center premises there shall be not more than one freestanding sign, plus not more than one building sign per business. All signs must comply with the requirements of Section 4.3. No sign shall be located within required setbacks from Route 128.

(g) In addition to the above-stated criteria, except 5.7.5(f), the following criteria shall apply to Assisted Living Facilities: (Adopted by City Council 6/20/00)

1. Twenty (20)% of the units of all assisted living facilities, twenty (20) units or greater in size, shall be designated for low to moderate income persons. Low and moderate income persons shall be defined by the most recent income guidelines established by the U.S. Department of Housing and Urban Development.
2. The developer/manager of the Facility shall annually certify to the Gloucester Community Development Director that the income of the residents meets the U.S. Department of Housing and Urban Development qualifications.

At the discretion of the SPGA, this requirement will be fulfilled in one of the following ways:

- (A) 20% of the units onsite shall be designated for low to moderate income persons;

(B) The equivalent value of these units will provide for housing services for low to moderate income persons offsite.

3. Gloucester residents or their relatives shall be given priority in admission so long as all federal, state or local rules, laws, regulations, or ordinances are satisfied.

4. Parking Requirements: One off-street parking space for every two dwelling units, one visitor parking space for every ten units, plus one parking space for each two hundred square feet of nonresidential area.

5. Assisted Living Residences shall comply with the dimensional requirements as shown in Sections 2.3.1 Residential Uses #11A and 3.2.3 Intensity of Use Schedule.

5.7.6 Council Action

Indication of City Council approval shall be placed upon approved Special Permits and upon all supporting documentation on which such approval is based. The Special Permit shall be made conditional upon project execution not deviating from supporting documentation without explicit Council authorization, which may be granted without further public hearing if deviations are minor.

5.8 FREIGHT, TRANSPORTATION TERMINAL FACILITIES

No trailer truck park shall be located within 1000 feet from the lot line of an established residence in a residential zone, and such potential development must be assessed in terms of its impact on the environment.

5.9 CLUSTER DEVELOPMENT

5.9.1 Purpose

The cluster development is intended to accomplish all of the following:

- (a) Encourage the efficient and creative use of land in harmony with its natural features;
- (b) Minimize the consumption of open space by limiting the network of streets and utilities;
- (c) Preserve natural topography and wooded areas within developed areas;
- (d) Provide usable open space and, where appropriate, recreational facilities;
- (e) Preserve the visual character of the neighborhood;
- (f) Ensure high-quality design and site planning of developments to enhance the neighborhoods in which they occur and the city as a whole;

(g) Preserve sites and structures of historical importance.

5.9.2 Applicability

The Planning Board may grant a special permit for a Cluster Development on a parcel of land of a size equivalent to five times the minimum lot size in the District, but no less than three acres of contiguous land not separated by a roadway or utility easement at the time of application, in the R-1, R-RA, R-RB, R-2, R-2A and R-3 residential districts, subject to the following regulations and conditions.

5.9.3 Preliminary Cluster Development Plan

5.9.3.1 Submittal Requirements

To facilitate the review process, applicants are encouraged to submit a Preliminary Cluster Development Plan and application to the Planning Board. Such submittal shall include the following information:

- (a) A plan prepared in accordance with the requirements for a preliminary subdivision plan, as described in Section 3.1.2 and 3.1.3 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, whether or not the development constitutes a subdivision, and shall include proposed location, bulk, and height of all proposed buildings and structures.
- (b) An evaluation of the open space proposed within the cluster, with respect to size, shape, location, natural resource value and accessibility by residents of the city or of the cluster.

5.9.3.2 Review By Other Boards

Upon its receipt of the Preliminary Cluster Development Plan, the Planning Board shall transmit one copy each to the Board of Health, Conservation Commission, Fire Department, and the Building Inspector for review and comment.

5.9.3.3 Approval or Disapproval

The Board shall act on the Preliminary Cluster Development Plan within forty-five (45) days of the date of submission. The Board may approve the Plan, with or without modification, or disapprove it, in accordance with section 3.1.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

5.9.4 Definitive Cluster Development Plan

5.9.4.1 Submittal Requirements

An applicant seeking approval of a Definitive Cluster Development shall submit a plan and application to the Planning Board. Such submittal shall include the following:

- (a) A plan prepared in accordance with the requirements for a definitive subdivision plan, as described in Section 3.2.2, 3.2.3, and 3.2.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, whether or not the development constitutes a subdivision, and shall include proposed location, bulk, and height of all proposed buildings and structures.
- (b) An evaluation of the open space proposed within the cluster, with respect to size, shape, location, natural resource value and accessibility by residents of the city or of the cluster.
- (c) All materials required by Section 3.2.1 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.
- (d) A program for the permanent maintenance of all open space.
- (e) A development schedule which, at minimum, describes the phases of construction, proposed commencement dates, and the anticipated completion date for all road and utility improvements.

5.9.4.2 Review By Board of Health

At the time of filing the Definitive Cluster Development Plan, the applicant shall also file two copies of the Plan with the Board of Health. In accordance with the requirements of Section 3.3 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, the Board of Health shall, within 45 days of the Plan's filing, report to the Planning Board its approval or disapproval of the Plan.

5.9.4.3 Review By Other City Officials

The Planning Board shall transmit copies of the Definitive Cluster Development Plan to the Department of Public Works, Fire Department, Building Inspector, and the Conservation Commission, in accordance with section 3.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

5.9.4.4 Approval or Disapproval

The Board shall hold a public hearing and act on the Definitive Cluster Development Plan within ninety (90) days of the date of submission, or within one hundred thirty-five (135) days if such Plan did not properly evolve from a Preliminary Cluster Development Plan. The Board may approve the Plan, with or without modification, or disapprove it, in accordance with Sections 3.5 and 3.6 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

5.9.5 Design Criteria

- (a) The Planning Board, in order to grant a special permit for a Cluster Development, must find that the proposed design and layout of the development is superior to a conventional one in preserving open space for conservation and recreation; in preserving natural features of the land; and in allowing more efficient provision of streets, utilities and other public services.

(b) In its consideration of a Cluster Development, the Planning Board shall give particular attention to, and shall use as a basis for its decision, all of the following:

1. Lots, streets, off-street parking, sidewalks, pathways and buildings which achieve the harmonious integration of the proposed development with surrounding properties;
2. The overall layout and design that achieves the best possible relationship between the proposed development and the land;
3. Appropriately sized and configured open spaces for active or passive recreation;
4. Protection of natural features such as streams, mature trees or clusters of trees, rock outcrops, bluffs, slopes, and historic or archeological features;
5. Provision of access to open spaces for the physically handicapped, elderly, and children;
6. Use of open spaces for preserving, enhancing, or providing scenic vistas;
7. Preservation and protection of historic resources;
8. Adequacy of provisions for public safety, protection from fire and flood, and maintenance of public facilities, streets, utilities, and open space.

5.9.6 Allowable Uses

A Cluster Development may include any residential use permitted in that zoning district. The Planning Board may grant special permits required for any such structures located in a Cluster Development. These structures may be situated on separate lots, or situated on a single lot together with open space. Lots created under this provision with more than one dwelling unit under separate ownership thereon shall be in compliance with applicable M.G.L. c. 183A, or with the charter and by-laws of a land trust whose purpose is the provision of affordable housing. Cluster Developments that do not involve the subdivision of land shall comply with all of the design criteria and improvement requirements of the Rules and Regulations Governing the Subdivision of Land in Gloucester, MA.

5.9.7 Development Density

- (a) The maximum number of dwelling units allowed in a Cluster Development shall be derived by dividing the parcel of land by 90% of the normal minimum lot area or square footage per unit requirements in that district.
- (b) Where the Cluster Development includes more than one ownership and/or lies in more than one district, the number of units allowed shall be calculated as above for each district and summed to give an overall allowable total, which may be located on the plan without respect to allowable subtotals by district or ownership areas.

5.9.8 Density Bonus

The Planning Board may authorize an increase in lots or dwelling units up to 20% above that allowed under Section 5.9.7 of this Ordinance, if either of the following conditions are met:

- (a) The applicant deeds to the city or restricts under a conservation restriction a portion of the **Applicable Land Area**, if that land is determined by the Planning Board to be of critical importance for the public good. **Applicable Land Area** shall be calculated by a registered land surveyor, and equals the total area encompassed by the Cluster Development minus land subject to either inland or coastal wetland regulations (Article 12, Gloucester Code of Ordinances), and minus land otherwise prohibited from development by other local ordinances or regulations.
- (b) The applicant sets aside a portion of the dwelling units on the site as affordable units, as defined by Section 5.11.2 of this Ordinance. For each affordable unit the applicant shall receive a density bonus of one added lot or dwelling unit for each 1.5 permanently affordable dwelling units built.

5.9.9 Dimensional Requirements

- (a) The minimum size of lots in a Cluster Development shall be 10,000 square feet for a single or two-family house, and 20,000 square feet for a multi-family dwelling.
- (b) The Planning Board may waive up to fifty percent of the minimum requirements for frontage and/or yard requirements of each lot in the Cluster Development in order to achieve maximum open space area.
- (c) More than one single or two-family dwelling may be located on a lot in a Cluster Development, provided that the minimum lot area per dwelling unit is no less than 10,000 square feet.
- (d) Clusters of housing shall contain no more than ten single-family or two-family dwellings, and no more than four multi-family dwellings.
- (e) The minimum width of open space between clusters of dwellings, and between the Cluster Development and adjacent property, shall be fifty feet in each case.
- (f) Except as noted above, each lot in a Cluster Development shall comply with the dimensional requirements of the district within which it is located.

5.9.10 Common Open Space

- (a) Common open space is that land so designated by the applicant and approved by the Planning Board.
- (b) Common open space shall comprise not less than 30% of the **Applicable Land Area** within the Development Plan.

(c) Such open space may be in one or more parcels of a size and shape appropriate for its intended use as determined by the Planning Board and shall be within easy access to its intended users.

(d) Common open space land shall be used only for the following purposes:

1. Conservancy in its natural, undisturbed state. At least fifty percent of the common open space must be used in this manner;
2. grazing and agriculture;
3. walking, horseback riding and/or bicycle riding;
4. playing fields and courts;
5. swimming pools and other recreational facilities and structures for the use of the owners of the building lots; or
6. any combination of the above.
7. structures and parking specifically for the maintenance and use of the open space, provided that they occupy no more than five percent of said open space.

(e) The common open space shall be conveyed in one of the following ways, as approved by the Board:

1. To a corporation or trust comprising a homeowners association whose membership includes the owners of all lots or units contained in the development. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and shall grant a conservation restriction to the city of Gloucester over such land to insure that it be kept in an open state and not be built upon for residential use or developed for accessory uses such as parking or roadways.
2. To a non-profit organization, the principal purpose of which is the conservation of open space. The developer or non-profit organization shall grant a conservation restriction as set out above.
3. To the city for park or open space use, subject to the approval of the City Council, for management by the Conservation Commission, with a trust clause insuring that it be maintained as open space.

(f) The removal of material, including groundwater, minerals and trees over four inches basal diameter, except as necessary to comply with conditions of the Planning Board's approval, is prohibited.

5.9.11 Future Change

Any Cluster Development approved by the Planning Board under the provisions of this Section shall incorporate by reference the Cluster Development Plan and development schedule submitted by the developer with application. Minor amendments to such Cluster Development may be approved by the Planning Board, upon application and for good cause shown, but without necessity of public hearing; provided, however, that any of the following shall be considered a major amendment, and shall be acted upon only under the procedures applicable to the initial approval for a Cluster Development:

- (a) Reduction in the amount or change in the use of common open space, or any change in the general location of the common open space as provided in the permit; or
- (b) Any change in the general layout of the ways as provided in the permit; or
- (c) Any increase in the number of lots or dwelling units as provided in the permit; or
- (d) Altering the location of any building or structure by more than ten feet.

5.9.12 Changes Not Permitted

Lots and dwelling units created under this provision shall not be modified in any manner other than as indicated in Section 5.9.11.

5.10 WATERSHED PROTECTION OVERLAY DISTRICT (Adopted 1/10/89)

5.10.1 Purpose of District

To promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the City from any use of land or buildings which may reduce the quality of its water resources.

5.10.2 Scope of Authority

The Watershed Protection Overlay District is considered as overlaying other zoning districts. Uses not permitted in the portions of the districts so overlaid shall also be prohibited in this district.

This district does not limit the existing authority of the Conservation Commission pursuant to Section 40 of Chapter 131 of the General Laws and Article 12 of the Local Code of Ordinances.

5.10.3 Establishment and Definition of District

(a) The Watershed Protection Overlay District includes all lands lying adjacent to water courses and surface water bodies which contribute to the city's water supply, and which create the catchment or drainage areas of such water courses and bodies, as part of their natural drainage system. The map defining the Watershed Protection Overlay District boundaries, entitled "Public Water Supply Watershed Boundary Maps, City of Gloucester" drawn at a scale of 1 inch to 100 feet, are hereby adopted by the City Council and are incorporated herein by reference and are on file in the City Planning Office.

(b) Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner of the land in question to show where they should properly be located. If the property owner can prove, to the satisfaction of the Planning Board, the Board of Health, and the City Engineer, that his property does not drain into the watershed of the public water

supply, then this district shall not apply. At the request of the owner the city may engage a geologist, hydrologist or other qualified professional to determine more accurately the location and extent of a watershed or recharge area, and may charge the owner for all or part of the cost of the investigation.

5.10.4 Prohibited Uses

The following land uses, activities, devices, structures, and/or substances are prohibited within the Watershed Protection Overlay District:

- (a) Dry cleaning establishments.
- (b) Junk and salvage yards.
- (c) Car washes, except when located on public water and sewer.
- (d) Boat and motor vehicle service, storage and repair establishments.
- (e) Any industrial use that discharges processed wastewater.
- (f) Commercial removal or relocation of earth materials, including but not limited to sand, gravel, topsoil, metallic ores, or bedrock.
- (g) Any animal feedlots or pastures less than 5 acres in size lying within 100 feet of the center line of all brooks, streams and rivers or within 100 feet of the normal highwater line of lakes, ponds, marshes, swamps and bogs.
- (h) Landfills and the storage of salt and road de-icing chemicals.
- (i) The outdoor storage of fertilizers, herbicides, and pesticides and outdoor uncovered storage of manure.
- (j) Burial in any cemetery or other place within 100 feet of the high water mark of a course of public water supply or tributary thereto. Lands shall not be taken or used for cemetery purposes until a plan and sufficient description of the lands is presented to the DEQE and until such taking or use is expressly approved in writing by the DEQE.
- (k) The disposal of solid wastes other than brush or stumps.
- (l) The disposal of leachable wastes.
- (m) The dumping of snow contaminated by de-icing chemicals which is brought in from outside the district.
- (n) The storage or disposal of hazardous materials, as defined by the Hazardous Waste Regulations promulgated by the Hazardous Waste Board, and Water Resources Commission, and the Division of Water Pollution Control, except for the storage of chemicals for use associated with the operation of public water supply facilities.

- (o) The storage and/or sale of petroleum and other hydrocarbons other than that normally associated with residential use, except for the storage of fuel for use associated with the operation of public water supply facilities. Heating oil shall be stored within the buildings which it will heat. Underground storage of any petroleum product is expressly prohibited.
- (p) Any discharge of water which has been used for washing, cooking or otherwise altered and devices for the collection, storage and disposal of said wastes, unless that water is of household origin and is processed, prior to discharge, through a treatment system that satisfies the minimum requirements of the state environmental code, known as 310 CMR 15, Title V, or the regulations of the Gloucester Board of Health.
- (q) Privy, dry well, or other place for the collection, storage or disposal of human excrement that does not satisfy the minimum requirements of the state environmental code, known as 310 CMR 15, Title V, or the regulations of the Gloucester Board of Health.
- (r) Public or private hospital or other establishment intended for the treatment of persons afflicted with a contagious or infectious disease.
- (s) Hitching or standing place for horses, cattle or other animals.
- (t) Storage or disposal of any human excrement or compost containing human excrement, or any municipal, commercial or industrial refuse or waste product or polluting liquid or any substance which in the opinion of the Massachusetts DEQE is of a nature that is poisonous or injurious either to human beings or animals, or other putrescible organic matter whatsoever, at any place from which such liquid or substance may flow or be washed or carried into said source of water supply or tributary thereto.
- (u) Manufacturing or processing plant producing wastes which are toxic or injurious either to human beings or animals, unless the location thereof has been expressly approved in writing by the DEQE.
- (v) Any building or structure lying within 50 feet of the banks of all brooks, streams and rivers or within 50 feet from the normal highwater line of lakes, ponds, marshes, swamps and bogs.

5.10.5 Special Permit Uses

The Planning Board, under the authority of Section 3.4.2 of this ordinance, may allow the following uses within the Watershed Protection Overlay District, upon issuance of a special permit in accordance with Section 5.10.6 hereof and subject to any additional conditions the Board may impose.

- (a) Those business and industrial activities permitted in the underlying district and not specifically prohibited in Section 5.10.4 of this ordinance, provided that a plan to prevent compaction and siltation, loss of recharge, seepage from sewer pipes and contamination by oil, chemicals, nutrients, etc. is submitted and determined to be satisfactory.

(b) The incidental removal of gravel, sand, loam or other earth material from new and existing excavations.

5.10.6 Procedures for Issuance of Special Permits

(a) Each application for a special permit shall be filed with the Planning Board and shall be accompanied by 3 copies of the plan. In addition to submittal requirements listed in section 1.4.2.2(b)1, the following additional information should be provided:

- i) Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.
- ii) Drainage recharge features and provisions to prevent loss of recharge.
- iii) Amount of impervious surface proposed for the lot.

(b) Said application and plan shall be prepared in accordance with the data requirements of the proposed development, (e.g., site plan review, erosion and sedimentation control plan, etc.)

(c) The Planning Board shall refer copies of the application to the Board of Health, the Conservation Commission and the City Engineer, which shall review, either jointly or separately, the application and shall submit their recommendation to the Planning Board within 35 days of the referral of the application.

(d) The Planning Board shall hold a hearing, in conformity with the provision of section 9 of Chapter 40A of the General Laws, within 65 days after the filing of the application, in accordance with the procedures defined in section 1.4.2.2.

Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties in interest" as defined in section 11 of chapter 40A of the General Laws. The decision of the Planning Board and any extension, modification or renewal thereof, shall be filed with the Planning Board and City Clerk within 90 days following the closing of the public hearing. Failure of the Board to act within 90 days shall be deemed a granting of the permit. However, no work shall commence until a certification is recorded as required by section 11.

(e) After notice and public hearing, and after due consideration of the reports and recommendations of the Board of Health, the Conservation Commission, and the City Engineer, the Planning Board may grant a special permit provided that it finds that the proposed use is consistent with the criteria set forth in 1.4.2.2(e) and further meets the following criteria:

- i) is consistent with the purpose and intent of this ordinance;
- ii) is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
- iii) will not have a significant adverse effect, during construction or thereafter, on the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;

iv) is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

5.10.7 Application of Fertilizers, Pesticides and Herbicides

For any use involving the application of fertilizers, pesticides, or herbicides, the applicant must obtain a report from the Board of Health Agent stating that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water and on the land within the district as a result of such application and submit it to the permit granting authority. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water (or the use of pesticides having low solubility in water), the prevention of volatilization and redeposition of pesticides and the lateral displacement (i.e. wind drift) of pesticides. The application of fertilizers for non-domestic or non-agricultural uses will be approved only if the applicant can prove that such application shall be made in such manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition and sedimentation.

5.11 INCLUSIONARY HOUSING REQUIREMENTS

The requirements of this Part are established for the purpose of:

- (a) increasing the supply of housing in the City of Gloucester that is permanently available to and affordable by low and moderate income households;
- (b) encouraging a greater diversity of housing accommodations to meet the needs of families and other Gloucester residents; and
- (c) developing and maintaining a satisfactory proportion of the city's housing stock as affordable units.

5.11.1 Applicability

These Inclusionary Housing Requirements shall apply to all multi-family residential developments involving 21 or more bedrooms, or 11 or more dwelling units. A development project shall not be segmented to avoid compliance with these requirements.

5.11.2 Requirements

All residential developments subject to this Section shall be required to set aside ten percent of the total number of dwelling units provided on the site as affordable housing. Affordable owner-occupied housing shall be defined as dwelling units having a purchase price of no more than 2 1/2 times 80% of the median income for a family of three in the Salem/Gloucester Standard Metropolitan Statistical Area. Affordable rental units shall be defined as dwelling units having a monthly rent no greater than 80% of the maximum current rent established by the U. S. Department of Housing and Urban Development for Section 8 rental units.

5.11.3 Conditions

(a) Permanent Affordability

Affordable owner-occupied and rental units provided under this Part shall remain so permanently. The method employed for insuring the permanent affordability of these units shall be developed and implemented by the City's Community Development Department. Such methods may include deed covenants, contractual requirements, transferring ownership of the property to a local land trust, and/or other appropriate arrangements to ensure permanent affordability.

(b) Comparability

Affordable units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in size, interior finish, fixtures and appliances.

(c) Family Units

Except as otherwise provided by the City Council, affordable units shall contain a minimum of two bedrooms and shall be in every way suitable for family occupancy.

5.11.4 Alternative Requirements

With the approval of the City Council the inclusionary housing requirement may be met through one of the following alternative methods:

(a) Off-Site Location

Location of some or all of the required affordable units on an alternative site or sites suitable for housing use. Affordable off-site units shall be newly created and at least equal in number to the affordable units that would have been provided on-site. Affordable off-site units required by this Section may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structures.

(b) Cash Contribution

Cash contribution to the City of Gloucester or its designee, to be used for the sole purpose of providing affordable housing for low and moderate income families. The amount of the cash contribution shall be, for each affordable unit, equal to the cost of erecting a 1600 square foot manufactured home on a foundation and providing a suitable site on which to place it. The contribution shall be placed into a separate fund to be administered by the Community Development Department, and to be used solely for the purpose of increasing the availability and affordability of housing in Gloucester. The contribution shall be made to the city upon, or prior to, the city's issuance of a certificate of occupancy of 50% of the units in the development.

Affordable units provided through such alternative methods shall comply, in all respects other than on-site location, with the requirements of this section.

5.11.5 Compliance

(a) Permit Conditions

No major project special permit shall be issued without appropriate restrictions to ensure that the provisions of this Section are made binding upon the applicant.

(b) Performance Bond

Prior to the issuance of a building permit the applicant shall submit a performance bond secured by a deposit of money or negotiable securities. The bond shall be, in the opinion of the City Council, equal to 120% of the cost of constructing the approved development. After the development has been built to the satisfaction of the City Council in accordance with the approved Special Permit, the applicant may request discharge of the bond.

(c) Occupancy Conditions

No certificate of occupancy shall be issued for any market-rate units in a development covered by this Section until all deed covenants, contractual agreements, and/or other documents necessary to ensure compliance by the applicant with the requirements of this Section have been executed.

5.12 BUSINESS PARK DISTRICT

All principal uses permitted in the BP Business Park District shall conform to the design standards described in the subsections below.

5.12.1 Open Space

To maintain the function, safety and aesthetics of parking areas and building development within the district, a minimum of ten (10) percent of each lot shall be maintained as open space. Such open space areas may include suitability landscaped areas, areas left in their natural state, planting areas within or adjacent to parking and loading areas, pedestrian walkways and exterior recreation areas.

5.12.2 Landscaping Around Buildings

For all buildings constructed after April 1, 1993, a five (5) foot wide landscaped foundation planting shall be provided at the base of not less than fifty (50) percent of the length of the building wall facing the way upon which it has its frontage.

5.12.3 Buffer Zone

A seventy-five (75) foot buffer zone shall be provided from the lot line of any lot that abuts or is partially within the residential district. No structures, parking, or paved areas shall be allowed within the buffer zone.

5.13 PERSONAL WIRELESS SERVICE FACILITY (Adopted 1/6/98)

5.13.1 PURPOSE AND INTENT

It is the express purpose of this ordinance to minimize the visual and environmental impacts of personal wireless service facilities. The Ordinance enables the review and approval of personal wireless service facilities by the City of Gloucester in keeping with the City's existing Ordinances and historic development patterns, including the size and spacing of structures and open spaces. This Ordinance is intended to be used in conjunction with other regulations adopted by the City, including historic district regulations, site plan review and other local Ordinances designed to safeguard public health and safety, encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the City of Gloucester.

The regulation of personal wireless service facilities is consistent with the Charter of the City of Gloucester and planning efforts of the city through its local comprehensive plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; the preservation of coastal resources; protection of the natural resources of Cape Ann; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

If a personal wireless service facility is permitted by right in a zoning district, then the basic assumption is that the personal wireless service facility could go anywhere within that zoning district provided certain dimensional standards are met. This Ordinance does not recommend this approach because there may be sensitive resources in any zoning district that could be negatively affected by these facilities.

If a personal wireless service facility is permitted by Special Permit, then the basic assumption is that the personal wireless service facility could go anywhere in the City, providing certain discretionary and dimensional standards are met. The Special Permit regulations of this Ordinance are intended to mitigate any negative impacts of these facilities.

5.13.2 DEFINITIONS

5.13.2.1 Above Ground Level (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

5.13.2.2 Antenna. The surface from which wireless radio signals are sent and received by a personal wireless service facility.

5.13.2.3 Available Space. The policy that requires siting of personal wireless service facilities on existing buildings or structures, regardless of height, before looking to new construction opportunities. The theory is that available space exists throughout the urban area and that it is more cost-effective, resource-conserving and visually acceptable to place personal wireless service facilities on available space. It is the first preference of the City of Gloucester to have personal wireless service facilities use available space.

- 5.13.2.4 Camouflaged. A personal wireless service facility that is disguised, hidden, or made a part of an existing or proposed structure is considered "camouflaged."
- 5.13.2.5 Carrier. A company that provides wireless services.
- 5.13.2.6 Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.
- 5.13.2.7 Concealed. A personal wireless service facility that is placed within an existing or proposed structure so that it is hidden from view is considered "concealed."
- 5.13.2.8 Dual-polarized (or cross-polarized) antenna. A low mount that has three panels flush mounted or attached very close to the shaft.
- 5.13.2.9 Elevation. The measurement of height above sea level.
- 5.13.2.10 Environmental Assessment (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.
- 5.13.2.11 Equipment Shelter. An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.
- 5.13.2.12 Fall Zone. The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- 5.13.2.13 F.A.A. Federal Aviation Administration
- 5.13.2.14 F.C.C. Federal Communications Commission
- 5.13.2.15 Functionally Equivalent Services. Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.
- 5.13.2.16 Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- 5.13.2.17 Lattice Tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- 5.13.2.18 Licensed Carrier. A company authorized by the FCC to construct and operate a commercial mobile radio service system.
- 5.13.2.19 Monopole. The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

5.13.2.20 Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:

- a) Roof-mounted. Mounted on the roof of a building.
- b) Side-mounted. Mounted on the side of a building.
- c) Ground-mounted. Mounted on the ground.
- d) Structure-mounted. Mounted on a structure other than a building.

5.13.2.21 Omnidirectional (whip) antenna. A thin rod that beams and receives a signal in all directions.

5.13.2.22 Panel Antenna. A flat surface antenna usually developed in multiples.

5.13.2.23 Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act. (See Footnote 1)

5.13.2.24 Personal Wireless Services. The three types of services regulated by this Ordinance, including commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services.

5.13.2.25 Radiofrequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.

5.13.2.26 Radiofrequency Radiation (RFR). The emissions from personal wireless service facilities. (See Footnote 2)

5.13.2.27 Repeater. A small receiver/transmitter of not more than 20 Watts output designed to provide service to areas which are not able to receive adequate coverage directly from a personal wireless service facility.

5.13.2.28 Security Barrier. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

5.13.2.29 Separation. The distance between one carrier's array of antennas and another carrier's array.

5.13.2.30 S.P.G.A. Special Permit Granting Authority.

Footnotes:

1. Personal wireless service facilities are defined in the Telecommunications Act of 1996. This definition is also provided in Section 2.0 of the City of Gloucester Zoning Ordinance.

2. It is RFR, not all EMF, that is regulated by the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines). The FCC Guidelines were published on 8/1/96. The FCC had extended the implementation date of the FCC Guidelines from 1/1/97 to 10/15/97.

5.13.2.31 Telecommunications Act of 1996. 47 U.S.C., Section 332 (c) (7) preserves the authority of municipalities to regulate the placement, construction and modification of personal wireless service facilities, but provides that municipalities shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless service facilities.

5.13.2.32 Wetlands. As defined in MGL, Chapter 131, Section 40 and City of Gloucester Code of Ordinances, Chapter 12 "Marshlands".

5.13.2.33 Historic Structure. A structure listed on the National Register of Historic Places or Eligible structure for placement on the National Register of Historic Places.

5.13.2.34 Scenic Road. To be determined.

5.13.3 MUNICIPAL REGULATIONS

5.13.3.1 Use Regulations. A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

a) A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Section 5.13.3.3 (e) below. Such installations shall require a Special Permit.

b) A personal wireless service facility involving construction of one or more ground- or building (roof- or side-) mounts shall require a Special Permit in all zoning districts within the City, provided that the proposed use complies with the height and setback requirements of Section 5.13.3.3 and all of the Special Permit Regulations set forth in Section 5.13.4 of this Ordinance.

c) A personal wireless service facility that exceeds the height restrictions of Sections 5.13.3.3(a) through 5.13.3.3(e) inclusive may be permitted by Special Permit in a designated Personal Wireless Service Facility Overlay District, provided that the proposed facility complies with the height restrictions of Section 5.13.3.3(f), and all of the setback and Special Permit Regulations set forth in Section 5.13.3.3 and 5.13.4 of this Ordinance.

5.13.3.2 Location. Applicants seeking approval for personal wireless service facilities shall comply with the following:

a) The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate. If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities.

- b) If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed to as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.
- c) The applicant shall submit documentation of the legal right to install and use the proposed facility, in the form of a license from the FCC, at the time of application for a building permit and/or Special Permit.
- d) The use of repeaters to assure adequate coverage, or to fill holes within areas of otherwise adequate coverage, while minimizing the number of personal wireless service facilities may be allowed. An applicant who has received a personal wireless facility Special Permit under this Ordinance may, with at least 30 days written notice to the SPGA, Planning Board, Board of Health, Conservation Commission, Building Inspector, and City Clerk, install, at the applicant's expense, one or more additional repeaters. Site Plan review before the SPGA will be required. The SPGA will publish written notice of public meeting date at least 14 days in advance. Applicants shall detail the number, location, power output, and coverage of any proposed repeaters in their systems and provide engineering data to justify their use. No repeaters shall be located closer that 50 feet to an existing dwelling, nor less than 25 feet above the ground. Maximum height shall be up to 150 feet in the Personal Wireless Service Facility Overlay District or up to ten feet above average tree, or tallest building height within 300 feet of the repeater.

5.13.3.3 Dimensional Requirements. Personal wireless service facilities shall comply with the following:

- a) Height, General. Regardless of the type of mount, personal wireless service facilities shall be no higher than ten feet above the tallest height of buildings within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney or similar structure. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- b) Height, Ground-Mounted Facilities. Ground-mounted personal wireless service facilities shall not project higher than ten feet above the tallest building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on-site.
- c) Height, Side- and Roof-Mounted Facilities. Side- and roof-mounted personal wireless service facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless service facilities may locate on a building

that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

d) Height, Existing Structures. New antennas located on any of the following structures existing on the effective date of this Ordinance shall be exempt from the height restrictions of this Ordinance provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: Water towers, guyed towers, lattice towers, fire towers and monopoles.

e) Height, Existing Structures, (Utility). New antennas located on any of the following existing structures shall be allowed to exceed the height restrictions of this Ordinance with a Special Permit provided that there is no more than a twenty feet (20') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This provision shall not apply in Historic Districts, within 150 feet of the right-of-way of any scenic roadway, or in designated scenic viewsheds.

f) Height, Personal Wireless Service Facility Overlay Districts. Where the City of Gloucester establishes Personal Wireless service Facility Overlay Districts (as designated on the City of Gloucester Zoning Map), personal wireless service facilities of up to 150 feet in height may be permitted by Special Permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and Special Permit Regulations set forth in this Ordinance, except for the average tree height canopy requirement of 5.13.3.3(b).

g) Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

- 1) In order to ensure public safety, the minimum distance from the base of every ground-mounted personal wireless service facility to the property line of any residence, school, daycare center, medical facility or nursing home shall be at least **500 feet** measured on a horizontal plane. The minimum distance from the base of any ground-mounted personal wireless service facility to any other type of property line, road, structure, or business shall be the height of the facility/mount including any antennas or other appurtenances. For these uses only, this setback is considered a fall zone. (Amended 3/9/99)

- 2) In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities, except as provided in Section h) below.

h) Flexibility. In reviewing a Special Permit application for a personal wireless service facility, the City Council (SPGA) may reduce the required fall zone and/or setback distance, if it finds that a substantially better design will result from such reduction. In

making such a finding, the City Council (SPGA) shall consider both the visual and safety impacts of the proposed use.

5.13.3.4 Personal Wireless Service Facility Overlay District. The City shall establish four (4) districts where personal wireless service facilities up to 150 feet in height may be granted Special Permits.

a) Two districts shall be in the G-I zoning districts in the Western portion of the City of Gloucester along Kondelin Road and west of Magnolia Avenue respectively.

b) Two districts shall be in the Eastern Portion of the City of Gloucester, one, part of the B-P zoning district at Blackburn Industrial Park and the other, part of the G-I zoning district adjacent to the Blackburn Industrial Park.

c) The personal Wireless Service Facility Overlay District shall be mapped and on file with the City of Gloucester Zoning Map at the Office of Community Development.

d) The Gloucester City Council may, from time to time, add other overlay district areas to this list.

5.13.4 SPECIAL PERMIT REGULATIONS

All personal wireless service facilities shall comply with the Performance Standards set forth in this section.

5.13.4.1 Design Standards

a) Tiering. It shall be the policy of the City of Gloucester to consider applications for special permits to construct a personal wireless service facility on available space in the following order of priority:

1) First, personal wireless service facilities that are to be concealed within existing buildings or structures shall be preferred and only when presented with evidence that such buildings or spaces are not available, will the Gloucester City Council consider...

2) Second, personal wireless service facilities that are mounted on the roof of existing buildings shall be considered and, only when presented with evidence such buildings do not exist within the desired service areas, will the Gloucester City Council consider...

3) Third, personal wireless service facilities that are mounted on available space, including existing personal wireless service facilities within one of four personal wireless service facility overlay districts.

4) The above preferences are to be considered opportunities carrying with them a favorable review, providing other applicable requirements of this ordinance are met.

5) For any of the priorities above, any assertion of property owner refusal, regardless of cost considerations, must be represented by a registered letter from the property owner.

b) Visibility/Camouflage or Concealment. Personal wireless service facilities shall be camouflaged or concealed as follows:

1) Camouflage or Concealment by Existing Buildings or Structures:

A) When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility with or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

B) Personal wireless service facilities which are side-mounted shall blend with the existing building's architecture and, if over five square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

2) Camouflage or Concealment by Vegetation. If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The City Council (SPGA) shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

3) Color

A) Personal wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

B) To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted with neutral colors that are harmonious with and blend with the background, such as sky or wooded terrain.

c) Equipment Shelters. Equipment shelters for personal wireless service facilities shall be reviewed by the City Council (SPGA) with a preference for the following design standards:

1) Equipment shelters shall, as a first preference, be located in underground vaults; or if not, demonstrable evidence offered as to why underground vaulting is impossible, and then,

2) Equipment shelters above grade shall, as a second preference, be designed consistent with traditional New England architectural styles and materials, with a roof pitch of at least 10/12 and wood clapboard or shingle siding; or, if not,

3) Equipment shelters shall, as a last preference, be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The City Council (SPGA) shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

d) Lighting and Signage

1) Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

2) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the City's sign regulations.

e) Historic Buildings and Districts.

1) Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

2) Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible. Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads or viewing areas within the district.

f) Scenic Landscapes and Vistas

1) No new ground-mounted personal wireless service facilities shall be located within areas contained in the Visual Overlay District on file in the City of Gloucester Department of Community Development. The Visual Overlay District Map shall contain:

A) View corridors, or that strip of land within 250 feet of the outer edge of the right-of-way on both sides of State Route 128.

B) Coastal shoreline, or that inland strip of land within 250 feet of the ten-foot contour line above mean sea level except that such inland strip shall extend 250 feet above the mean high tide line when no beach or coastal marsh area is located inland from such line.

C) Watercourse and water body buffers, or those strips of land within 75 feet of average mean high water on all streambeds, quarries, reservoirs and ponds.

D) Public open space, or all lands reserved for parks, recreation, public schools and playgrounds as well as conservation through public control.

2) Roof-mounted, side-mounted, camouflaged or otherwise concealed personal wireless service facilities may be subject to the Special Permit process and will be permitted within the areas shown on the Visual Overlay District Map, provided they meet the standards of this Ordinance.

g) Security Barriers

1) All ground-mounted personal wireless facilities shall be surrounded by a security barrier.

5.13.4.2 Environmental Standards

a) Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

b) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, including all hydrocarbon products, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

c) Stormwater run-off from the facility shall be contained on-site.

d) Environmental Standards, Noise:

1) Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 decibels at the property line.

2) Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 decibels at ground level at the base of the building closest to the antenna.

3) The City Council (SPGA) retains the right to commission an acoustical engineer to study noise at a proposed site in accordance with the standards in Section 5.13.5.5(e) of this Ordinance. The cost for retaining such an engineer shall be borne by the applicant.

5.13.4.3 Health Standards. As proposed, all requirements to protect public health and safety below are specified to ensure a legally defensible position by the City.

a) Radiofrequency Radiation (RFR) Standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines). The FCC Guidelines were published on August 1, 1996. The FCC had extended the implementation date of the FCC Guidelines from January 1, 1997 to October 15, 1997.

b) Retention of Experts. The City Council (SPGA) retains the right to commission experts to study the existing, probable or potential RFR at a proposed site. The cost for retaining such experts shall be borne by the applicant.

5.13.5 APPLICATION PROCEDURES

5.13.5.1 Special Permit Granting Authority (SPGA). The Special Permit Granting Authority (SPGA) for personal wireless service facilities shall be the Gloucester City Council.

5.13.5.2 Other Permits Required. Any other permits required from federal, State or municipal agencies must be applied for and granted to the applicant prior to acceptance of an application for a Special Permit for a personal wireless service facility from the City of Gloucester.

5.13.5.3 Special Permit Procedures. All procedures for applying for Special Permits shall be consistent with, and as provided for, Section 1.4.2 of the City of Gloucester Zoning Ordinance and Rule 25 of the City of Gloucester Zoning Ordinance.

5.13.5.4 Special Permit Requirements. The required application for a Special Permit shall not follow 1.4.2.2(b)1 or 1.4.2.2(b)2. of the City of Gloucester Zoning Ordinance, but rather shall meet the requirements in Sections 5.13.5.5 et seq.

5.13.5 APPLICATION PROCEDURES

5.13.5.5 Application Filing Requirements

The following shall be included with an application for a Special Permit for all personal wireless service facilities:

a) General Filing Requirements:

1) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.

2) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.

3) A licensed carrier shall either be an applicant or a co-applicant.

4) Original signatures for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, original signatures authorizing the agent to represent the applicant and/or co-applicant. Photo reproductions of signatures will not be accepted.

b) Location Filing Requirements:

- 1) Identify the subject property by including the City as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- 2) Tax map and parcel number of subject property.
- 3) Zoning district designation for the subject parcel (Submit copy of City zoning map with parcel identified).
- 4) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- 5) A City-wide map showing the other existing personal wireless service facilities in the City and outside the City within one mile of its corporate limits.
- 6) The proposed locations of all existing and future personal wireless service facilities in the City on a City-wide map for this carrier.

c) Siting Filing Requirements:

- 1) A one-inch-equals-40-feet vicinity plan showing the following:
 - A) Property lines for the subject property.
 - B) Property lines of all properties adjacent to the subject property within 300 feet.
 - C) Tree cover on subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
 - D) Outline of all existing buildings, including purpose (e.g. Residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
 - E) Proposed location of antenna, mount and equipment shelter(s).
 - F) Proposed security barrier, indicating type and extent as well as point of controlled entry.

G) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.

H) Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.

I) Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.

J) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

K) Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility. All heights shall be shown as proposed AGL, before any grading or disturbance of the natural grade.

L) Plan lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" sub-section below.

M) If the proposed facility will extend above the tree canopy, a vicinity viewshed map and sectional drawings at a scale of 1 inch = 40 feet including the entire area within 2500 feet and showing the following: 1) topography, public and private roads, buildings and structures, bodies of water, and landscape features; and 2) areas which are likely to have views of the facility based on terrain characteristics, including openness, elevation and slope.

2) Sight lines and photographs as described below:

A) Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (view point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public road.

B) Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch photograph of what can currently be seen from any public road within 300 feet.

C) Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.

3) Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

A) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.

B) Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.

C) Any and all structures on the subject property.

D) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.

E) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

d) Design Filing Requirements

1) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

2) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., galvanized steel, anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

3) Colors of the proposed personal wireless facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

4) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

5) Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

6) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen and species.

7) Within 21 days of filing an application for a Special Permit, the applicant shall arrange for a 48-hour, 24 hours of which must be on a weekend day, balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, including a second date, in case of poor visibility due to weather conditions on the initial date, time and location of such test shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test.

8) If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

e) Noise Filing Requirements. The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale accounting for greater sensitivity at night), for the following:

1) Existing, or ambient: the measurements of existing noise.

2) Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment. Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Ordinance.

3) As proposed, all requirements are specified to ensure a legally defensible position by the City.

f) Radiofrequency Radiation (RFR) Filing Requirements. The applicant shall pay for an Independent Consultant, hired by the city, to monitor the background levels of radiofrequency radiation around the proposed personal wireless service facility site. The Independent Consultant shall provide a statement listing the existing and maximum future projected measurements of radiofrequency radiation from the proposed personal wireless service facility, for the following situations:

1) Existing, or ambient: the measurements of existing RFR.

2) Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR environment.

- 3) Certification, signed by a RF engineer stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Radiation Standards sub-section of this Ordinance.

A report of the monitoring results shall be prepared by the Independent Consultant and submitted to the City Council, Board of Health, Planning Board, Building Inspector, and City Clerk.

g) Federal Environmental Filing Requirements:

- 1) The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

- A) Wilderness areas.
- B) Wildlife preserves.
- C) Endangered species habitat.
- D) Historical site.
- E) Indian religious site.
- F) Flood plain.
- G) Wetlands.
- H) High intensity white lights in residential neighborhoods.
- I) Excessive radiofrequency radiation exposure.

- 2) At the time of application filing, an EA that meets FCC requirements shall be submitted to the City for each personal wireless service facility site that requires such an EA to be submitted to the FCC.

- 3) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.

h) The Special Permit Granting Authority may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

5.13.6 CO-LOCATION

- 5.13.6.1 Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a Special Permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

- a) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
- b) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

5.13.6.2 In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the City. The City may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The City may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

5.13.6.3 If the applicant does intend to co-locate or to permit co-location, the City shall request drawings and studies which accurately show the ultimate appearance and operation of the personal wireless service facility at full build-out.

5.13.6.4 If the City Council (SPGA) approves co-location for a personal wireless service facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit. Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

5.13.7 MODIFICATIONS

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a Special Permit when the following events apply:

5.13.7.1 The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the personal wireless service facility in one or more of the following ways:

- a) Change in the number of facilities permitted on the site;
- b) Change in the technology used for the personal wireless service facility.

5.13.7.2 The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

5.13.8 MONITORING AND MAINTENANCE.

As proposed, all requirements are specified to ensure legally defensible position by the City.

5.13.8.1 After the personal wireless service facility is operational, the owner(s) of any personal wireless service facility located on any facility site shall pay for an Independent Consultant, hired by the City, to conduct testing and monitoring of radiofrequency radiation emitted from said site and to report results of said monitoring as follows:

Within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, the Independent Consultant shall submit existing levels of radiofrequency radiation from the personal wireless service facility. Such measurements shall be signed by a radiofrequency engineer stating that radiofrequency measurements are accurate and meet Federal Communications Commission guidelines as specified in the Radiofrequency Standards of this Ordinance.

A report of the Monitoring Results shall be prepared by the Independent Consultant and submitted to the City Council, Board of Health, Planning Board, Building Inspector and City Clerk.

5.13.8.2 After the personal wireless service facility is operational, the applicant shall submit, within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Ordinance.

5.13.8.3 The applicant and co-applicant shall maintain the personal wireless service facility in good condition. If the SPGA deems it necessary, an initial bond shall be posted to cover construction costs and an annual maintenance bond to cover maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, access road maintenance and maintenance of the buffer areas and landscaping.

5.13.9 ABANDONMENT OR DISCONTINUATION OF USE

5.13.9.1 At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the City by certified U. S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

5.13.9.2 Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- a) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
- b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- c) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

5.13.9.3 If a carrier fails to remove a personal wireless service facility in accordance with this section of this Ordinance, the City of Gloucester shall have the authority to enter the subject property and physically remove the facility. The City Council (SPGA) shall require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event the City must remove the facility.

a) Such a performance bond shall only be deposited in an Enterprise Account, so labeled and established for the sole purpose of removing an abandoned or discontinued facility.

b) In the absence of an Enterprise Account, the Building Inspector may request removal authority and sufficient funds from the Gloucester City Council.

5.13.10 RECONSTRUCTION OR REPLACEMENT OF EXISTING TOWERS AND MONOPOLES

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the City Council (SPGA) finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the city than the existing structure. In making such a determination, the City Council (SPGA) shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

5.13.11 TERM OF SPECIAL PERMIT

A Special Permit issued for any personal wireless service facility over fifty (50) feet in height shall be valid for twenty-five (25) years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new Special Permit shall be required.

5.13.12 PROVISION FOR FIRE SAFETY AND RESCUE

5.13.12.1 All applicants for ground-mounted personal wireless service facilities shall contribute toward improving the adequacy of City of Gloucester's response in the event of hazardous or emergency events on high, free-standing structures such as:

a) Training fire department personnel on accessing high structures with conventional fire-fighting methods and equipment.

b) Purchasing any new equipment necessary to improve the City of Gloucester's ability to suppress emergencies and rescue personnel on high, free standing structures.

5.13.12.2 The Gloucester Fire Department shall establish an Enterprise Account for the purposes set forth above.

5.13.12.3 All applicants shall contribute to the Fire Safety and Rescue Enterprise Account for personal wireless service facilities on a pro-rated basis.

5.13.13 REGULATION COMPLIANCE

Failure to comply with any regulations under the Special Permit shall be grounds for removal of non-complying structures, buildings, devices, at the owner's expense.

5.14 ASSISTED LIVING FACILITIES (Adopted 6/20/00)

5.14.1 PURPOSE

The purpose of this section is to provide for the availability of elderly assisted living residences and services in the City of Gloucester; to provide for functionally impaired individuals by guiding residential settings that promote the dignity, individuality, privacy and decision-making ability of such persons. Assisted Living is a special combination of housing, personalized support services and care designed to respond to the individual needs of those requiring help in activities of daily living (ADL's), but who do not require the skilled medical care provided in a nursing facility. Assisted Living care promotes maximum independence and choice by addressing the individual needs and preferences of each resident while encouraging the involvement of a resident's family, neighbors and friends.

5.14.2 ADMINISTRATION

An Assisted Living Facility of up to ten (10) units is a use authorized by the granting of a Special Permit (CCS) by the City Council under Section 2.3.1, Paragraph 12, in all use districts, except for Marine Industrial (MI), Business Park (BP), and watershed overlay districts where municipal sewer is not available. An Assisted Living Facility of eleven (11) or more dwelling units is a use authorized by the granting of a Special Permit (CCS) by the City Council under Section 5.7, Major Projects and Section 2.3.1, Paragraph 12, in all use districts, except for Marine Industrial (MI), Business Park (BP), and watershed overlay districts where municipal sewer is not available.

5.14.3 DEFINITIONS

Assisted Living Residence - As defined by MGL Chapter 19D, 1, an Assisted Living Residence is an entity, however organized, whether conducted for profit or not for profit, which meets all the following criteria:

1. Provides room and board; and
2. Provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adults who are not related by consanguinity or affinity to their care provider; and
3. Collects payments or third party reimbursements from, or on behalf of, residents to pay for the provision of assistance with the activities of daily living or arranges for the same.

Ancillary Services - Services and facilities may include, but not be limited to, the following: meeting room, laundry rooms, gardening, exercise rooms and recreational areas; libraries, common or private dining facilities; offices, health practitioner services for diagnoses and outpatient services for residents only; social services; barber/beauty services; transportation for medical and recreational purposes; assistance with activities of daily living, concierge service, housekeeping services, sundry store, swimming/therapeutic pools, whirlpools, lecture/theater hall, chapel, pub (for residents only), ice cream parlor, banking office (for residents only). Such services shall be ancillary to residential use and shall be intended primarily for the residents and employees of the assisted living residence.

Personal Care Services - Personal Care Services shall mean staffing, facilities and programs which are provided to residents of assisted living residences in the areas of health counseling, instruction, examination, diagnosis, hygiene, nutrition, and physical fitness

Activities of Daily Living - Bathing, dressing, and grooming, walking and moving about, eating, toileting, medication management, and other personal tasks.

Resident - Resident shall mean an individual who resides in an assisted living residence and who requires and receives the housing and personal services of an Assisted Living Facility.

Dwelling Unit - A portion of an assisted living residence designed for and occupied by one or two individuals as the private living quarters of such individuals. Shared units occupied by two people are allowed, as are semiprivate units with separate sleeping quarters and a shared bathroom for up to three residents.

5.14.4 ADDITIONAL DIMENSIONAL REQUIREMENTS AND PERFORMANCE STANDARDS

In addition to the requirements of Section 5.7 for Assisted Living Facilities of eleven (11) units or more and Section 1.4.1.2 for Assisted Living Facilities of ten (10) units or less, the following requirements shall be considered:

1. Accessory buildings must comply with the same regulations as principal buildings.
2. A specific height restriction of any proposed building is not included in these dimensional requirements, as it is the specific goal of this section that the building to be designated be consistent with the neighborhood, be responsive to existing topographical conditions, and be committed to good architectural design. This approach may result in a building whose height as calculated according to the formula of Building Height in the definition section of the Zoning ordinance exceeds thirty (30) feet. If the calculated height exceeds thirty (30) feet, the SPGA may grant a special exemption for an increase where such increase is judged by the SPGA not to be detrimental to the neighborhood; but in no case may the height exceed that permissible under the building codes. This section specifically discourages the use of flat roofs.
3. In the General Industrial district, the setback requirement for the area which directly abuts an industrial use and the assisted living facility shall be doubled and shall provide buffering and screening by providing an area at least ten (10) feet wide, densely planted with trees or shrubs five feet or more in height.

4. In R-RB, R-RA, R-1, R-2, R-2A districts, neither rooftops nor yard setbacks will be counted toward fulfilling minimum open space per dwelling unit requirements.
5. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent deemed feasible by the SPGA:
 - 1) minimize obstruction of scenic views from publicly accessible locations;
 - 2) preserve unique natural or historic features;
 - 3) minimize tree, vegetation, rock and soil removal and grade changes;
 - 4) maximize open space retention;
 - 5) screen objectionable features from neighboring properties and roadways.
 - 6) Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and City through the appropriate use of, screening, massing, roofline, and wall lines and other architectural techniques.
 - 7) Connecting tree-lined walkways may be provided between structures, parking areas, and abutting public ways. A mixture of shade trees may be spaced at a minimum of forty feet along said walkways if SPGA deems it desirable.
 - 8) Drainage shall be designed so that the pre-construction rate of run-off shall not be increased, groundwater recharge is maximized, surface and ground water quality is maintained, and neighboring properties will not be adversely affected. Drainage and stormwater management for the project should meet standards equivalent to those established in the City of Gloucester's Subdivision Rules and Regulations. The SPGA may require that existing drainage problems on or attendant to the site be mitigated as a condition of a special permit under this section.
 - 9) The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways through proper layout, location, design and detailing of facilities and dwellings.
 - 10) Parking areas shall be screened from public/private ways and adjacent or abutting properties by building location, fencing, and/or dense planting.
 - 11) Exposed storage areas, machinery, service areas, truck loading areas, solid waste disposal facilities, utility buildings and structures and other unsightly uses shall be set back and/or screened to protect the neighbors and protect residents from objectionable features.

12) No building shall be floodlit. Drives, walkways, entryways, and parking areas shall not be illuminated by lights higher than fifteen (15) feet, which shall be shielded to have a total cutoff of all light as less than ninety (90) degrees and a beam cutoff less than seventy-five (75) degrees. The total cutoff of all light shall occur within the property lines of the parcel to be developed.

13) Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible.

14) The SPGA and applicant shall seek guidance from the Historical Commission to insure the protection, restoration, or preservation of said historic locations, artifacts or structures within the proposed development.

15) If a development for elderly and handicapped persons is owned or converted to ownership of more than one ownership entity, a nonprofit, incorporated community association shall be established, requiring membership of each property owner in the development. The community association shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, recreation and thoroughfare facilities. A community association agreement or covenant shall be submitted with the special permit approval application guaranteeing continuance maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of City Legal Counsel and the SPGA.

16) Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the City may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve the taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall be assessed ratably against the properties within the development.

17) The SPGA may also impose, in addition to any applicable conditions specified in this Ordinance, such applicable conditions as it finds reasonable appropriate to safeguard the neighborhood, or otherwise serve the purposes of this Ordinance, including but not limited to, the following: front, side, or rear yards greater than the minimum required by this Ordinance, screening buffers or planting strips, fences, or walls, as specified by the SPGA; modification of the exterior appearance of the structure; limitation upon the size, numbers of occupants, method and time of operation, time of duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features, and off-street parking or loading or other special features beyond the minimum required by this Ordinance.

SECTION VI DEFINITIONS

In this Ordinance the following terms, unless a contrary meaning is required by the content or is specifically prescribed, shall have the following meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.

Accessory Building or Use: A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than 30% of the floor area or 50% of the lot area is occupied by such use, it shall no longer be considered accessory.

Animal Feedlot: A plot of land on which 25 livestock or more per acre are kept for the purposes of feeding.

Animal Kennel or Hospital: A structure used for the harboring and/or care of more than three dogs that are more than six months old, whether commercially operated or not.

Arterial Street: All state-numbered highways (Routes 127, 127A, 128, 133), Atlantic Road north of Moorland Road, Bass Avenue west of Thatcher Road, East Main Street, Eastern Point Road, Rogers Street, and Sayward Street, plus any streets subsequently laid out with right-of-way width of 80' or more.

Aquifer: A confined geologic formation composed of rock or unconsolidated material, from which significant quantities of potable water may be obtained.

Automatic Amusement Devices, Arcade: A business establishment with five or more coin-operated automatic amusement devices, licensed by the Licensing Board.

Bedroom: Any inhabitable room in a dwelling, other than a living room, dining room, kitchen, utility room, or bath if such room exceeds 60 square feet.

Billboard: A structure or part of a structure, of any size, either free-standing or affixed to a building, the surface of which is for hire for advertising purposes.

Boarding, Lodging, or Guest House: A building which contains rooms offered for lodging and in which meals also may be served to lodgers only, provided that the house is licensed by the Commonwealth of Massachusetts and the total number of lodgers in any boarding house may not exceed twenty (20) persons.

Building: A structure enclosed within exterior walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property.

Building Height: The vertical distance measured from the average grade prior to building construction to the highest point of the roof assembly (including parapets) in the case of a flat roof, or to the highest point of the peak or ridge in the case of a sloping roof. The average grade prior to building construction is established by determining the elevation of the building at all of its corners and deriving the average thereof. Included in the determination of height are widow walks and any towers or cupolas that are more than 4 feet wide and 4 feet tall. The average grade prior to building construction is established by determining the elevation of the building at all its corners and deriving the average thereof. Not included in the limitation are accessory features such as chimneys, skylights, television antennae and building mechanicals in commercial construction. (Amended 10/12/99)

Bulk Storage (Outdoor): Exposed outdoor storage of sand, lumber, coal, or other bulk materials, bulk storage of liquids in tanks, excluding underground tanks that are accessory to a principal use.

Camper: A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational and vacation uses, but not for permanent residence. Includes equipment commonly called travel trailers, pick-up coaches or campers, motorized campers, and tent trailers, but not mobile homes.

Camp Ground: Premises used for travel trailers, campers, tenting, or for temporary overnight facilities of any kind where a fee is charged.

Camping, Supervised: Facilities operated on a seasonal basis for a continuing supervised recreational, health, educational, religious, and/or athletic program, with persons enrolled for periods of not less than one week.

Casino Ship: "Casino Ship" includes all boats landing or mooring in Gloucester where its customers do not lodge on board overnight, where it has only one port of docking and destination and where gaming is its main activity. (Adopted 7/6/99)

Club or Lodge: Premises or buildings of a non-profit organization exclusively servicing members and their guests for recreational, athletic, or civic purposes, but not including any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club. Does not include golf clubs as elsewhere defined, or clubs or organizations whose chief activity is a service customarily carried out as a business.

Collector Street: Any street, other than an arterial street, which serves non-residential property fronting thereon, or subsequently laid out having a right-of-way of at least sixty (60) feet, plus the following named streets: Atlantic Road, south of Moorland; Atlantic Street south of Massachusetts Avenue; Concord Street south of Bray Street; Farrington Avenue; Haskell Street; Hesperus Avenue east of Norman Avenue; Magnolia Avenue; Maplewood Avenue; Moorland Road; Mt. Pleasant Avenue; Norman Avenue; Pleasant Street; Poplar Street; Prospect Street; Railroad Avenue; Reynard Street; and Wheeler Street south of Shore Hills Rd.

Condominiums: Land and building or buildings thereon, containing office or dwelling units and common areas and facilities which are regulated and managed by an organization of unit owners, under a master deed according to the provisions of Ch. 183A., G.L.

Consumer Service Use: An establishment in which the principal activity is the performance of a service. Consumer service establishments include, but are not necessarily limited to, the following: appliance repair, barber shop, beauty salon, catering, locksmith, photographer's studio, printing establishment, radio/TV repair, shoe repair, sign painting, tailor, watch and jewelry repair.

Contractor's Yard: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of sub-assemblies, and parking of wheeled equipment.

Cruise Ship: "Cruise ship" includes all boats landing or mooring in Gloucester Harbor whose main purpose is to travel to more than one port, where all its passengers lodge on board overnight and where gaming is incidental to the main purpose of visiting more than one port on each voyage.

(Adopted 7/6/99)

Discharge: The disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Dwelling: A building or part of a building used exclusively as the living quarters for one or more families.

Dwelling Unit: Living quarters for a single family with cooking, living, sanitary, and sleeping facilities for each unit.

Dwelling, Multi-Family or Apartment: A structure containing three (3) or more dwelling units, whether for rental, condominium ownership, or other form of tenure, including row or townhouse structures; or a structure containing one or more permitted non-residential uses on the ground floor, or on the ground and other floors, and also containing one or more dwelling units above the ground floor.

Dwelling, Single-Family Detached: A building containing a single dwelling unit, and having no common or party walls.

Dwelling, Two-Family: A building containing two (2) dwelling units that are in immediate proximity to each other and share either a common vertical exterior wall or a floor/ceiling separation. The length of any connecting corridor, hallway or passageway may not exceed (3) times the width of corridor, hallway or passageway. (Amended 12/11/01)

Family: One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided that a group of six (6) or more persons who are not within the second degree kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

Fish: Means fin fish, mollusks, crustaceans, and all other forms of marine animals and plant life, except marine mammals and birds.

Fishing Vessel: Means a vessel that commercially engages in the catching, taking or harvesting of fish or an activity that can be reasonably expected to result in the catching, taking or harvesting of fish (as defined in the Commercial Fishing Industry Vessel Act, P.L. 98-364, 46 U.S.C. Sec. 2101-2114 as amended).

Floor Area: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including the area of basements not more than 50 percent below grade, roofed porches and roofed terraces, excluding areas with less than six (6) feet floor to ceiling height. All dimensions shall be measured between exterior faces of walls.

Gross Floor Area: The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

Groundwater: Water located beneath the earth's surface in the zone of saturation of unconsolidated or consolidated aquifers.

Guest Unit: A room or suite of rooms in a hotel, motel, motor inn or lodging house suitable for separate rental.

Hazardous waste: A product or waste or combination of substances which because of quantity, concentration, or physical, or chemical, or infectious characteristics poses, in the Board of Health's judgement, a substantial present or potential hazard to the human health, safety, or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance deemed a hazardous waste in G.L., Ch. 21C, shall also be deemed a hazardous material for the purpose of this ordinance.

Hotel, Motel, Motor Inn: A structure or structures providing sleeping rooms for residence of transient guests, and where public eating facilities are provided; but not including buildings of charitable, educational or philanthropic institutions.

Impervious Surface: Material on the ground that does not allow surface water to penetrate into the soil.

Junk: Any article or material or collection thereof which is worn out, cast off, or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new, shall not be considered junk.

Junk Yard: Premises, whether licensed or not, where waste or scrap articles or materials are abandoned, stored, sorted, packed, bought or sold.

Leachable Waste: Waste materials, including solid wastes, sewage, sludge, and agriculture wastes, that are capable of releasing water-borne contaminants to the surrounding environment.

Lot: An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or for any other definite purpose.

Lot Area: The horizontal area of a lot exclusive of any area in a street or way open to public use. For multi-family residential dwellings, not more than ten percent of the lot area required for zoning compliance shall be a brook, stream, river, pond, lake, estuary or bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, wet meadow or swamp, or any land subject to tidal action, coastal storm flowage, flooding or inundation, as defined by Section 12-11 of the City of Gloucester Code of Ordinances. For all other residential and non-residential buildings for the creation of new lots only (already existing lots would not be affected), at least 75% of the lot area required for zoning compliance shall not be a brook, stream, river, pond, water-filled quarry, lake, estuary or bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, wet meadow or swamp, or any land subject to tidal action, coastal storm flowage, flooding or inundation, as defined by Section 12-11 of the City of Gloucester Code of Ordinances. **AND FURTHER, that this section shall apply only to new applications after March 8, 1999.** (Amended 3/9/99)

Lot Coverage: Percentage of total area covered by structures, or roofed.

Lot Frontage: That portion of a lot fronting upon and having access to a street or public way, to be measured continuously along one street line between its side lot lines and their intersection with the street line.

Lot Width: The horizontal distance between side lot lines, measured parallel to the lot frontage at the front yard setback line.

Marine-Related: An activity involving, pertaining to or requiring the loading, unloading, storage, processing or sale of fish or other water-borne goods or materials, or the embarking or disembarking of passengers, or the docking, construction, repair, servicing or maintenance of vessels.

Mining of Land: The removal or relocation of earth materials, including but not limited to, topsoil, sand and gravel, metallic ores, or bedrock.

Mobile Home: A movable or portable dwelling unit built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year-round living. A manufactured home designed for installation on a permanent foundation and for permanent connection to utilities without any provision for attachment of wheels shall not be considered a mobile home, whether or not built on a chassis, provided such manufactured home has a brick, wood, or similar exterior, and a pitched roof; and meets U.S. Department of Housing and Urban Development construction and safety standards.

Mobile Home Park: Premises which have been planned and improved for the placement of mobile homes for nontransient use.

Nonconforming Building or Lot: A building or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings but which building or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

Nonconforming Use: A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the district in which it is located, but which was in existence at the time the use regulation became effective and was lawful at the time it was established.

Nursery School or Day Care Center: Any facility operated on a regular basis, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, pre-school, or known under any other name which receives children, not of common parentage, under seven years of age, or under sixteen years of age if such children have special needs, for non-residential custody and care during part of all of the day separate from their school system; any part of a private organized educational system, unless the services of such a system are primarily limited to kindergarten, nursery or related pre-school services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor.

Nursing, Convalescent or Rest Home, Hospital: An institution licensed by the Department of Public Health as a nursing, convalescent or rest home, charitable home for the aged, hospital or sanitarium pursuant to Sections 51 and 71 of Chapter III, General Laws.

Open Space: Lot area not covered by any structure other than a swimming pool, and not used for drives, parking or storage. However, balconies and any roof area developed for recreation shall be deemed to be open space.

Parking Space: Space adequate to park an automobile, plus means of access. Where spaces are not marked, each space shall be assumed to require 350 square feet. All parking spaces required by this Ordinance shall be built to the standards set forth in Section 4.1.4.

Philanthropic Institution: An endowed or charitably supported non-profit religious or non-sectarian activity maintained for a public or semi-public use.

Principal Building or Use: Building or use other than an accessory one.

Public Utility: Electrical, gas, steam, water, communication or public passenger transportation systems and their appurtenances. Excluded from this definition are all personal wireless service facilities.

Radio Transmission: Premises used for the commercial transmission of radio or television, not including studios.

Recharge Area: Area of permeable earth materials which is hydrologically connected to aquifers through which precipitation or surface water is transmitted to the subsurface zone of saturation.

Recreational Vessel: Means a vessel that is (a) being manufactured or operated primarily for pleasure; or (b) leased, rented or chartered to another for the latter's pleasure.

Retail Use: A business establishment where the principal activity is the sale of goods directly to the consumer. Retail business uses include, but are not necessarily limited to, the following: antique store, appliance store, book/newspaper store, clothing store, computer store, department store, drug store, dry goods store, furniture store, grocery store, jewelry store, liquor store, musical instruments, stereo/video store, variety store.

Shopping Center: A retail business, entertainment, or consumer service establishment or an aggregation of such establishments on the same premises, having a minimum of 10,000 square feet of gross floor area.

Sign: Any device, including those on or inside of windows, designed to inform or attract the attention of persons not on the premises on which the sign is located, except for those devices specifically not considered signs in Section 4.3.1.

Sign, Accessory: A sign whose subject matter relates exclusively to the premises on which it is located, or to products, accommodations, services or activities on the premises.

Sign Area: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matter shall not be included unless internally or decoratively lighted. Only one side of flat, back-to-back signs shall be included in calculating sign area.

Sign, Free-Standing: A sign erected or affixed to the land, and not attached to a building.

Sign, Mural: A decorative display applied directly to a wall surface without supplementary backing, framing or other means of support.

Sign, Non-Accessory: Any billboard, or sign not an accessory sign.

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

State Highway: A highway owned by the Commonwealth of Massachusetts, or one designated as a State Numbered Highway by the Massachusetts Department of Public Works.

Street: Any public or private way which, by lawful procedure, has been recognized by the City and which has, as determined by the Planning Board, sufficient width, suitable grades and site distances, adequate clearances, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land deriving frontage therefrom, and for the installation of municipal services to serve such land and the buildings erected or to be erected on such land.

Street Line: The right-of-way line of a street, assumed to be 20 feet from the center of the traveled roadway where no such right-of-way line has been established or can be readily determined.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground, or attachment to something located on the ground. Structures include buildings, mobile homes, billboards, fences that exceed six (6) feet in height, swimming pools, tanks, or the like, or part thereof; boundary walls and fences not exceeding six feet in height are not considered to be structures.

Swimming Pool: Any constructed pool, located above or below the ground, whether portable or fixed, used or capable of being used for swimming, wading, or bathing purposes. Pools having depth of two feet or more and having a capacity of two hundred cubic feet or more in volume shall be considered structures.

Temporary Structure: Tent, construction shanty, or trailers, or similarly portable or demountable structures, intended for continuous use for not longer than one year.

Temporary Use: Use, occupation or occupancy of a parcel of land, building or structure for a period not to exceed one calendar year.

Trailer Truck Park: A transportation terminal principally used for the parking, storage, and servicing of trailer trucks or other trucks of more than two-ton capacity, including eating and sleeping facilities for truck drivers.

Transportation Terminal: Premises principally used for the loading or unloading of cargo from or into vehicles or storage, which may include the parking, storage or servicing of such vehicles, including trucks, rail freight cars, and marine vessels; but not including such activities if customarily accessory to a principal use.

Utility Trailer: A towed vehicle for transportation of goods or animals, but not intended for human occupancy.

Water's Edge: The point where land, seawall or bulkhead meets the mean high tide line, or if a pier or dock extends beyond the mean high tide line, the edge of that pier or dock next to the water.

Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

Yard: An open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward, except for fences, walls, other customary yard accessories, or projections allowed to encroach on building lines by the Commonwealth of Massachusetts State Building Code. In measuring a yard for purposes of determining the required width of a side yard, the required depth of a front yard or the required depth of a rear yard, the minimum horizontal distance between the lot line and the principal building shall be used.

Yard, Front: A yard extending between lot side lines across the front of a lot adjacent to each street it adjoins, measured between the street line and the principal building or any projection thereof other than steps, unenclosed balconies and unenclosed porches, except as otherwise provided in this Ordinance.

Yard, Rear: A yard extending across the rear of the lot between inner side yard lines, measured between the rear lot line and the rear of the main building or any projection thereof other than steps, unenclosed balconies or unenclosed porches except as otherwise provided in this Ordinance. On both corner lots and interior lots the rear yard shall be at the opposite end of the lot from the front yard.

Yard, Side: A yard extending from the rear line of the required front yard to the rear lot line.

Yard Sale: The occasional temporary use of a yard or garage for the retail sale of household articles formerly used by the residents of those or neighboring premises.

APPENDIX A - RULE 25: RULES OF PROCEDURE

SPECIAL PERMIT PROCEDURES

PART I: STATUTORY REQUIREMENTS

The following summary of the provisions of Chapter 40A of the General Laws of Massachusetts that govern the City Council's actions on Special Permits is included for the convenience and information of applicants for Special Permits and other interested citizens. The Council cannot depart from the following prescribed procedures in its handling of such Special Permits as are assigned to it for decision by the Zoning Ordinance.

These rules are adopted by the City Council in compliance with Section 9, Chapter 40A, M.G.L.

GENERAL PROCEDURE:

Special Permits by the City Council shall only be issued following a public hearing(s) held within sixty-five (65) days after the filing of an application with the City Council. The date of filing shall be considered the date a complete application is received by the City Clerk's Office. A complete application will contain all the information required under Section 1.4.2.2 of this Ordinance, and "Major Projects" as defined herein shall be submitted in conformance with the additional requirements of Section 5.7.2. Personal Wireless Service Facilities, as defined herein shall be submitted in conformance with Section 1.4.4.2 of the Ordinance and the additional requirements of Section 5.13.5. All reference to Special Permits, without specifying type (i.e., "CC", "CCS", or "Major Projects") shall be considered a "CC" permit.

The required public hearing may be held before a Committee of the City Council, or before the entire City Council, as the Council so chooses. The entire City Council shall vote on the Special Permit application within ninety (90) days following the close of the public hearing, after receiving a report by the Committee, if any, that held the public hearing. The vote to grant a Special Permit will be by two-thirds vote of all members of the City Council. Failure by the City Council to take final action upon any application for a Special Permit within said ninety (90) days following the close of the public hearing shall be deemed to be a grant of the permit applied for. The Council shall follow the Council Rules on Special Permit Procedures set forth in Part II of this section.

NOTICE

Notice of the public hearing shall be published in the local newspaper of general circulation in each of two successive weeks, the first publication at least fourteen (14) days before the day of the hearing, and by posting such notice in the City Hall for a period of not less than fourteen (14) days before the day of said hearing.

Notice shall also be mailed, postage prepaid, to:

- (a) the applicant, or petitioner;
- (b) the Planning Board;

- (c) the owners of land abutting the applicant's property, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recently applicable tax list;
- (d) the owners of land directly opposite on any public or private street or way;
- (e) the owners of all other property deemed by the City Council to be affected;
- (f) the Planning Boards of all abutting cities or towns.

The Assessor's Department shall certify to the City Council the names and addresses of parties in interest as defined above and such certification shall be conclusive for all purposes.

The notice shall contain the name of the applicant, the location of the area or premises for which the permit is applied, the street address, if any, the subject matter of the hearing, the nature of the action or relief being sought, and the date and place of the public hearing.

PUBLIC HEARING:

The presiding officer at the hearing may administer oaths, summon witnesses, and call for the production of papers.

All hearings shall be open to the public.

DECISION:

There must be a detailed record of the Council's proceedings, showing the vote of each member on each question (or if absent or failing to vote). This record must set forth clearly the reasons for the Council's decisions. City Council decision shall be based upon the written determination of the impact on the items of consideration listed in Section 1.4.2.2(e) of this Ordinance. Copies of the record are to be filed with the City Clerk and the Planning Board. Notice of the decision shall be mailed to all parties in interest, and also to each person at the public hearing who so requests.

The Council shall issue to the landowner a certified notice of the granting of any Special Permit, containing the name and address of the landowner, identifying the land affected, and stating that a Special Permit has been granted as set forth in the decision on file with the City Clerk. The permit does not take effect until this decision has been recorded in the Registry of Deeds, with the recording fee paid by the owner.

If an application has been denied by the City Council it may not be again considered on its merits within two (2) years of the decision except with the consent of all but one of the members of the Planning Board.

APPEALS:

Any person aggrieved by a decision of the City Council on a Special Permit, whether or not previously a party to the proceeding, or any Municipal Officer or Board may appeal to the Superior Court Department of Essex County, by bringing action within twenty (20) days after the decision has been filed in the Office of the City Clerk. Appeal procedures shall conform to Section 17 of Chapter 40A, M.G.L.

PART II: COUNCIL RULES ON SPECIAL PERMIT PROCEDURES

As required by Chapter 40A of the General Laws, the Gloucester City Council adopts the following rules for its procedure in acting on Special Permits assigned to the City Council for decision by the Zoning Ordinance:

1. Preliminary Informal Review

To promote better communication and avoid misunderstanding, applicants for Special Permits are encouraged to submit preliminary materials for informal review by the City Council or its standing committee, the Planning Board, the Building Inspector, the City Planner, and any other City officials or agency that the applicant considers likely to be considered in the decision. On all major projects, in addition to preliminary informal review, an applicant is encouraged at the 25% design stage, to submit materials for an informal interim review; said materials should show the location, height, density, and architectural treatment of buildings, traffic, environmental and utility considerations and the fiscal impact to the City. It is important, however, for applicants to realize that these preliminary informal reviews are not to be thought of as preliminary approvals, and interim informal reviews are in no way binding on the City Council in its action on the final application.

2. Applications for Council Special Permits

- a. The Application shall be submitted on forms available at the City Clerk's Office, which have been prescribed and approved by the City Council.
- b. The Special Permit shall include a description of whatever criteria are or may be listed in 1.4.2.2(e); for Major Projects there shall be an additional form listing the criteria in 5.7.5.
- c. City staff shall be available to assist applicants in preparing the applications, including when appropriate the Building Inspector and the City Planner.
- d. No application shall be received by the City Clerk and placed on the City Council agenda unless it is complete, including the materials required by 1.4.2.2(b), 5.7.2 for a Major Project, and 5.13.5 for Personal Wireless Service Facilities. The City Clerk, in determining the completeness of an application, may at his discretion refer it to the Building Inspector, the City Planner, or other City officials. If it is determined through such review that the project cannot be built unless a zoning variance is granted, the City Clerk shall rule that the application is not complete and return it to the applicant without prejudice, so that the applicant may either appeal to the Board of Appeals for the grant of such variance prior to reapplying to the City Council, or revise the plans to eliminate the need for a variance.
- e. The City Clerk shall affix the date of receipt of a complete application for Special Permit on the application form. Such date shall constitute the date of filing as set forth in Chapter 40A, M.G.L.

3. First Action by City Council

- a. When a completed special permit application, including a report and recommendation from the City Staff Review Committee, is received by the City Council, the Council shall refer same to its Planning & Development Committee for their initial review, to make a date for a site visit and set a date for public hearing before the full City Council.
- b. The Planning & Development Committee after review may also make a recommendation to the full City Council on disposition of the application, to be read after the City Council's public hearing.
- c. Proper notification of the public hearing before the full City Council (as required by State Statute) to the abutters shall be handled by the City Council. However, the applicant shall be responsible for sending out notices to abutters and parties of interest of the date(s) of Planning & Development Standing Committee Review(s).
- d. The public hearing date shall be set within sixty-five (65) days of the filing of the application with the City Clerk.

4. Public Hearing

- a. The first order of business at the public hearing shall be the reading of the notice of the hearing and a determination that the hearing is being properly held.
- b. The second order of business shall be a description of the proposed project and the presentation of arguments in favor of the application by the applicant and by any others who wish to speak in favor of the application. There shall be provided by the applicant and displayed within view of the Council and of those attending the hearing such maps, drawings, models, or other graphic materials required to have been submitted with the application as are necessary to explain the proposal.
- c. The third order of business shall be presentation of all advisory reports requested or required under 3.c. above. These reports shall have been submitted in writing, but may be presented and summarized orally either by a representative of the reporting agency if one is present or by the City Planner. For Major Projects, the Council may request the presence of representatives of one or more of the reporting agencies.
- d. The fourth order of business shall be arguments opposed to the application. This shall be followed by presentation of all communications not covered in Paragraph 4.c., then by brief opportunities for rebuttal by the proponents and counter-rebuttal by the opponents.
- e. With all testimony complete, and all questions concerning the proposal answered to the satisfaction of the Council, the public hearing shall be closed. If testimony is not complete, or questions remain to be answered by the applicant(s), opponent(s) or other source(s) of information, as directed by the City Council, the public hearing shall be continued to a time and date certain, and the record shall remain open for additional written communications.

Upon reopening the public hearing, such additional testimony or information shall be presented as set forth in 4.b., 4.c. and 4.d. above. At the conclusion of such additional testimony or presentation of information and all rebuttals as stated in 4.d. above, the public hearing shall be closed.

f. The final order of business shall be Council action, either final or preliminary. (See 5 below)

5. Council Action

a. Final action by City Council on a request for Special Permit shall be taken within ninety (90) days following the public hearing. Failure to take action within said ninety (90) day period shall be considered a grant of the permit applied for.

b. If in the course of the public hearing it appears that the project cannot be built unless a zoning variance is granted, the Council shall rule that the application is not complete and therefore is not properly before it; and the application shall be returned to the applicant without prejudice for such action or revision as he may choose.

c. Final Council action on an application for a Special Permit shall be by adoption, by a two-thirds roll call vote, of a written document which shall have been available to every member of the Council prior to the vote, and subject to normal procedures of debate, amendment, and action.

d. This document shall include a specific finding and judgement, in relation to the case in hand, on each of the considerations listed in 1.4.2.2(e) and, where applicable, each of the criteria listed in 5.7.5, 5.13.3 and 5.13.4. It shall conclude with a summary evaluation of the findings and judgments, supporting one of the following actions:

- (1) Denial of the Special Permit;
- (2) Approval, subject to specified conditions or modifications;
- (3) Approval as submitted, without conditions or modifications.

e. Drafts of this document to be considered by the Council may have been prepared by any member of the Council, or by any City official or employee upon instruction by the Council. Written material may be submitted by either proponents or opponents prior to the close of the public hearing, as set forth under Section 4 of these rules.

f. For a simple or non-controversial case, an acceptable draft of this document may be available to the Council at the time of the public hearing. When this is applicable, the Council will take final action on the application at the close of the public hearing.

g. For a complex or controversial case, the Council at the close of the hearing may or may not be ready to make a decision. If the decision is already clear, the Council may pass a motion instructing a specific official or employee to prepare a document in support of the decision

for consideration at the next Council meeting. If the decision is not clear, the Council will defer action to its next meeting, but no additional information will be received or considered in addition to the testimony and information obtained during the course of the public hearing and constituting the record of same.

h. The City Council, on each permit granted, shall specify a time period, of not more than two years, within which substantial use thereof must commence, or in the case of construction, that the construction must commence, except for good cause, including such time required to pursue or await appeals proceedings as provided for in state law.

i. The successful applicant shall be required to provide documentary evidence to the City Council proving that any and all conditions specified by the Council in the Special Council Permit issued have been complied with and there upon, the Council will issue a "Certificate of Conditions Complete" or Occupancy Permit for the premises until the City Council has issued said certification of completion.

Modification of Application of Rules

In a specific case the Council may find it necessary or desirable to depart from the letter of one or other or these rules. If or when this is done, the departure will be noted in the record together with the reason for it.

APPENDIX B - INTERIM ORDINANCES

I. WEST GLOUCESTER INTERIM PLANNING OVERLAY DISTRICT (Adopted 5/30/00)

A. INTENT AND PURPOSE

This Section is adopted pursuant to the provisions of M.G.L. C. 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution. This Section is in anticipation of the City of Gloucester and the Town of Essex entering into an intermunicipal agreement to install sewer lines in West Gloucester and the completion of the sewer construction required by the agreement that threatens the City's current capacity to service and keep pace with subsequent increased demands upon municipal infrastructure, environmental quality and services necessary to accommodate growth and preserve quality of life, including fire protection, water, sewer, schools, transportation, recreation, and/or police protection, preservation of open space, water quality, wildlife habitat and prevention of congestion and sprawl.

This Section therefore has the following purposes:

- (1) to ensure that growth within this district occurs in an orderly and planned manner, consistent with recent average growth rates, while avoiding large year-to-year variations in the development rate;
- (2) to provide the City with time to study the effects of this sewerage on residential growth and on the municipality's infrastructure, including as well community character, natural environment and municipal services, to prepare a comprehensive plan to address those effects and to implement such a plan;
- (3) to relate the timing of residential development to the city's ability to provide adequate public safety, schools, roads and municipal infrastructure, and human services at the level of quality which citizens expect, and within the City's ability to pay under the financial limitations of Proposition 2-1/2;
- (4) to preserve and enhance the existing community character and value of property;
- (5) to allow the city time to determine which areas other than those specifically referenced in the intermunicipal agreement will need sewer construction and develop a plan for that construction;
- (6) to provide the City with time to study the environmental impacts of any additional sewer construction on environmentally sensitive areas and provide environmental safeguards for them, including but not limited to the Essex Bay/Parker River Area of Critical Environmental Concern;
- (7) to implement the recommendations of the comprehensive plan developed for the area.

B. INTERIM PLANNING OVERLAY DISTRICT BOUNDARIES

The interim planning district to be created is located within Ward 5-2 and is approximately bounded as follows: From the intersection of the R-RB and R-3 zoning districts located approximately 800 feet southwest of the intersection of Essex Avenue and the Essex Town line northeast on a line 2.8 miles to the Gloucester section of Castle Neck, southeast approximately one mile along Coffin and Wingaersheek Beaches to the Annisquam River, southwesterly 3.8 miles on a line extending to the northeast end of Lily Pond and including the southeast side of Laurel Street plus a two hundred foot buffer, northeast on a line approximately 200 feet northwest of Laurel Street to Essex Avenue, then west along the boundary between the R-2 and R-2A Zoning Districts, roughly parallel to Essex Avenue, and further west along the northern boundary of the R-RB Zoning District and the southern boundary of the R-3 Zoning District to the Essex Town Line.

A Gloucester Zoning Map, dated October 12, 1999, showing the boundaries of the Interim Planning Overlay District will be on display at the Community Development Office, 22 Poplar Street and the City Clerk's office, City Hall, and will be incorporated into this ordinance.

Public and Private Ways located in the West Gloucester Interim Planning Overlay District including all or parts of the following:

Abbey Road, Anderson Way, Andrews Court, Atlantic Avenue, Atlantic Street, Bayberry Lane, Bayle Lane, Becker Lane, Biskie Head Point, Boynton Island, Bray Street, Brookfield Drive, Brooks Lane, Brooks Road, Bungalow Road, Cabot Lane, Castle Hill Road, Causeway Street, Chickadee Road, Clover Lane, Cole's Island Road, Concord Street, Cove Way, Crafts Road, Crane Way, Digby Lane, Dune Circle, Dune Lane, Elmo Lane, Elva Road, Essex Avenue, Eveleth Road, Fenley Road, Fernald Street, Forest Lane, Great Hill Road, Great Ledge Lane, Gull Lane, Hidden Way, Hilltop Road, Hunter Road, Jebeka Lane, Jer Jean Circle, Jones River Road, Julie Court, Kent Road, Keystone Road, Landing Road, Larose Avenue, Laurel Street, Lawrence Court, Lawrence Mountain Road, Leaman Drive, Lily Road, Lincoln Street, Longview Road, Longview Terrace, Massachusetts Avenue, Mathieu Hill Road, New Way Lane, North Landing Way, old Bray Street, Overlook Avenue, Pebble Path, Point Road, Presson Point Road, Ridgewood Lane, Russ Road, Rust Island Road, Sand Dollar Circle, Sandy Way, Saville Road, Skipper Way, Skipper Way Terrace, Sleepy Hollow Road, Sumner Street, Totten Lane, Two Penny Lane, Valley Road, Walker Court, Walker Street, Waterman Road, Wauketa Road, West Wingaersheek Road, Winterhaven Road, Woodman Street, Wyoma Road, Ye Olde County Road, Castle View Drive, Cedarwood Road, Ram Island, Roberts Court, Salt Marsh Lane, Schooner Ridge Lane, Sea Fox Lane, Sea Rule Lane, Thompson Street, Becker Circle, Welch Lane.

C. REGULATIONS AND USE RESTRICTIONS

To accomplish the intents and purposes of Section "A" as enumerated in Sections One through Seven (1-7),

- 1) For five (5) years from the date of enactment, and no later than July 1, 2005 (unless extended), all applications for:

a) Approval Not Required parcels resulting in the creation of four or more lots within the interim overlay district; and

b) any divisions of a parcel of land within the interim overlay district which would cumulatively result in the development of four (4) or more lots, within the interim overlay district, shall require a Special Permit from the Planning Board. Any extension of this five (5) year period shall require a two thirds (2/3) vote of the City Council and shall be for no more than one year (July 1, 2006).

2) During the period that the overlay district is in effect, no approval shall be granted and no building permit issued unless each resulting lot can be permitted under the provisions of the requirements of the Gloucester Board of Health for a Title V system and 310 CMR 15.00. The Planning Board shall note this requirement on all approved plans which are subject to this section.

3) The issuance of a Special Permit for subdivisions of four (4) or more lots and cluster developments of four (4) or more units shall be subject to the Subdivision Rules and Regulations of the Gloucester Planning Board and Section 5.9 of the Gloucester Zoning Ordinance for cluster developments. The Special Permit may also include but not be limited to conditions as to the layout of lots, the design and location of public improvements, and the establishment of permitted building envelopes, so as to minimize potentially adverse effects on the environment and its scenic integrity.

4) Construction of private sewer lines is prohibited in the overlay district until such time as this ordinance is amended by a two-thirds (2/3) vote of the City Council to specifically allow private sewage lines and treatment facilities within the overlay district or until such time as this ordinance section expires.

5) The effective period of the Interim Overlay District may be extended or reduced by a two-thirds (2/3) vote of the City Council following the procedures established in Section 1.5 of the Gloucester Zoning Ordinance, but under no circumstances may the total extension period exceed one (1) year (July 1, 2006).

II. THE COMMONWEALTH OF MASSACHUSETTS: AN ACT RELATIVE TO CERTAIN SUBDIVISIONS OF LAND IN THE CITY OF GLOUCESTER.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the city of Gloucester may adopt an ordinance providing that no subdivision of more than 3 lots shall be approved in an overlay district in the city until July 1, 2005, provided that each resulting lot can be permitted under the provisions of the requirements of the board of health of the city for a Title V system and 310 CMR 15.00. The issuance of a special permit for subdivisions and cluster developments greater than 3 lots or units shall be subject to the subdivision rules and regulations of the planning board of the city. The special permit may also include, but not be limited to, conditions as to the layout of lots, the design and location of public improvements, environment and its scenic integrity.

(1) Private sewer lines are prohibited in the overlay district until such time as this ordinance is amended by a 2/3 vote of the city council specifically to allow private sewage treatment facilities within the overlay district.

(2) During the period that the interim planning district is in effect all applications for approval not required parcels resulting in the creation of 3 or more buildable lots within the interim overlay district and 1 or more divisions of a parcel of land within the interim overlay district which would cumulatively result in the development of more than 3 lots, or cluster developments within the interim overlay district greater than 3 units, shall require a special permit from the planning board.

(3) The interim planning district to be created is located within Ward 5-2 and is approximately bounded as follows: From the intersection of the R-RB and R-3 zoning districts located approximately 800 feet southwest of the intersection 3 of Essex Avenue and the Essex Town line northeast on a line 2.8 miles to the Gloucester section of Castle Neck, southeast approximately 200 feet northwest of Laurel Street to Essex Avenue, then west along the boundary between the R-2 and R-2A Zoning districts, roughly parallel to Essex Avenue, and further west along the northern boundary of the R-RB Zoning District and the southern boundary of the R-3 Zoning District to the Essex Town Line. Public and Private Ways located in the West Gloucester Interim Planning District and including all or parts of the following: Abbey Road, Anderson Way, Andrews Court, Atlantic Avenue, Atlantic Street, Bayberry Lane, Bayle Lane, Becker Lane, Biskie Head Point, Boynton Island, Bray Street, Brookfield Drive, Brooks Lane, Brooks Road, Bungalow Road, Cabot Lane, Castle Hill Road, Causeway Street, Chickadee Road, Clover Lane, Cole's Island Road, Concord Street, Cove Way, Crafts Road, Crane Way, Digby Lane, Dune Circle, Duane Lane, Elmo Lane, Elva Road, Essex Avenue, Eveleth Road, Fenley Road, Fernald Street, Forest Lane, Great Hill Road, Great Ledge Lane, Gull Lane, Hidden Way, Hilltop Road, Hunter Road, Jebeka Lane, Jer Jean Circle, Jones River Road, Julie Court, Kent Road, Keystone Road, Landing Road, Larose Avenue, Laurel Street, Lawrence court, Lawrence Mountain Road, Leaman Drive, Lily Road, Lincoln Street, Longview road, Longview Terrace, Massachusetts Avenue, Mathieu Hill Road, New Way Lane, North Landing Way, Old Bray Street, Overlook Avenue, Pebble Path, Point Road, Presson Point Road, Ridgewood Lane, Russ Road, Rust Island Road, Sand Dollar Circle, Sandy Way, Servile Road, Skipper Way, Skipper Way Terrace, Sleepy Hollow Road, Sumner Street, Totten Lane, Two Penny Lane, Valley Road, Walker Court, Walker Street, Waterman Road, Wauketa Road, West Parish Lane, Whale Rocks Road, Whipple Woods Road, Wyoma Road, Ye Ole County Road, Castle View Drive, Cedarwood Road, Ram Rule Lane, Thompson Street, Becker Circle, and Welch Lane.

SECTION 2. The provisions of this act shall expire on July 1, 2005. The effective period of the interim overlay district may be extended by 2/3 vote of the city council of the city of Gloucester following the procedures established in section 1.5 of the zoning ordinances of the city, but under no circumstances may the total extension period exceed 1 year.

SECTION 3. This act shall take effect upon its passage.

House of Representatives, December 10, 2001.

III. MORATORIUMS IN ALL WARDS, 1998 and 1999

- A. Adopted November 10, 1998: To declare a one-year building moratorium for new residential subdivisions of three or more lots including Special Permits for cluster developments of three units or greater, in Wards Four and Five only.
- B. Adopted May 25, 1999: To declare a one-year building moratorium on the issuance of building permits for Wards One and Three for all residential subdivisions of three or more lots, including Special Permits for cluster developments of three units or greater.
- C. Adopted August 10, 1999: To institute a one-year building moratorium on the issuance of building permits for Ward Two for all residential subdivisions of three or more lots, including Special Permits for cluster developments of three units or greater.

APPENDIX C - REZONED AREAS

1. Adopted March 9, 1999: To rezone the area of land Northwest of the Goose Cove Watershed from Low Density Residential R-2 (20,000 SF) to Rural Residential R-RA (40,000 SF). (Refer to Zoning Map numbers 25,32,33,42 for the above 500+/- acres.)
2. Adopted March 9, 1999: To rezone the Medium Density Residential R-3 (10,000 SF) corridor along Washington Street between Goose Cove and Folly Cove to Low Density Residential R-2 (20,000 SF). (Refer to Zoning Map numbers 25,32,33,34,35,43 for the above 547 +/- acres.)
3. Adopted March 9, 1999: To rezone Area 39, Special Study District #5, Medium Density Residential (R-3) (10,000 SF) corridor district along Concord and Atlantic Streets to Low Density Residential R-2 (20,000 SF). (Refer to Zoning Map numbers 13,14,15,16,24,25 for the above 694 +/- acres.)
4. Adopted March 9, 1999: To rezone Area 46, Special Study District #6, South and West of Concord Street from Low Density Residential R-2 (20,000 SF) to Rural Residential R-RA (40,000 SF). (Refer to Zoning Map numbers 9,10,11,14,15,16 for the above 1241+/- acres.)
5. Adopted March 9, 1999: To rezone Area 40, Special Study District #8, the non-urbanized area of Magnolia (excluding Village Business, Neighborhood Business, Extensive Business) currently zoned Medium Density Residential R-3 (10,000 SF) to Low Density Residential R-2 (20,000 SF) which are not within the Watershed. (Refer to Zoning Map numbers 6,7,16,18,19,20,21,22 for the above 1234+/- acres.)
6. Adopted April 27, 1999: To amend by changing the residential zoning for the Little River Sections of the City, Special Study Districts #3 and #4 in the 1998 Buildout Analysis, from R-3, Medium Density Residential 10,000 sq. Ft. Lot size, to R-2, Low-Density Residential, 20,000 sq. ft. Lot.
7. Adopted July 20, 1999: To rezone the area of 18 Biskie Head Point, Charles and Susan Kelly Owners, Assessor's Map 232, Lot 3 from EB (Extensive Business) to R-3 Medium Density Residential.
8. Adopted October 12, 1999: To rezone a section of land with boundaries as shown on the 1998 Metropolitan Area Planning Council's Buildout Analysis Map of Gloucester as Special Study District #7, including an extension of its southerly boundary to Englewood Road then east to Magnolia Woods Park and north to along the northerly side of Western Avenue to its intersection with Bond Street, all currently zoned R-2, to R-2A, 30,000 sq. Ft. Minimum lot size. In addition, all single and two-family houses within the R-2A district that were in existence or for which a building permit was issued before March 9, 1999, are allowed to be altered, reconstructed, or extended providing they maintain a minimum front yard setback of 20 feet, side yard setback of 10 feet and a rear yard setback of 20 feet.
9. Adopted December 7, 1999: To rezone lots in the Woodbury Street area of North Gloucester from Low Density Residential, (R-2) 20,000 square foot minimum lot size to Rural Residential-B (RR-B), 80,000 square foot minimum lot size on the following City Assessors' Maps and Lots: Map 150: Lots 1, 2, 3, 6, 7, 8, 9, 11, 12, 16 ; Map 149: Lots 3, 4, 5, 6, 7, 10, 11, 12, 14, 15, 16; Map 148: Lots 4, 8, 20, 22, 23, 24.

10. Adopted August 21, 2001: To remove 20,040 square feet from the General Industrial (GI) Zoning District and then add the exact same area and location to the High Density Residential (R-4) District. As referenced on Assessor's Map 32 (Map dated August 28, 1986, last revised June 12, 1990) the zoning change encompasses Lots 20, 21, 24 and 25.

APPENDIX D - INDEX OF RECENT ADOPTIONS/AMENDMENTS

<u>Year</u>	<u>Date</u>	<u>Section</u>	<u>Adoption/Amendment</u>
1998	04/14	1.4.2.2(a)	City Council Special Permit Procedures
	04/14	1.4.2.2(b)4	City Council Special Permit: Personal Wireless Service
	04/14	5.13.5	Personal Wireless Service Facility
	09/01	1.4.2.2(b)5	City Council Special Permit: Protein Recovery Plant
	09/01	2.3.4, #41A	Protein Recovery Plant
	11/10	Appendix B, II	One year building moratorium - Wards 4 and 5
	12/08	2.3, 2.3.1	Use Regulations Schedule-One Family to Two
	12/08	3.4, 3.4.1	Pork Chop Lots: Conditions for Issuance-Minimum Lot Area
1999	03/02	4.1, 4.1.1 (c)	Off-Street Parking
	03/09	Appendix C	Rezone: Goose Cove Watershed
	03/09	Appendix C	Rezone: Washington St. corridor between Goose & Folly Cove
	03/09	Appendix C	Rezone: Concord and Atlantic Streets
	03/09	Appendix C	Rezone: South and West of Concord Street
	03/09	Appendix C	Rezone: Non-Urbanized area of Magnolia
	03/09	Section VI	Definitions: Lot Area
	03/09	5.13.3.3g (1)	Dimensional requirements for Personal Wireless
	04/27	Appendix C	Rezone: Little River-Districts #3 and #4
	05/25	Appendix B, II	One year building moratorium-Wards 1 and 3
	06/22	2.4.3(a)	Use Regulations-Minimum Setbacks, R-RA & R-2
	06/22	3.2 Footnote 1	Dimensional Regulations-Yard Setbacks
	07/06	2.3.3 - Para. 29	Open Uses-Permitted Use Area-Casino Boats
	07/06	2.3.3 - Ftnote (2)	Definition: Cruise Ship/Casino Ship
	07/06	Section VI	Definition: Cruise Ship/Casino Ship
	07/06	4.1, 4.1.2	Off-Street Parking-Casino Boat Water Uses
	07/20	Appendix C	Rezone: Biskie Head Point
	08/10	Appendix B, II	One year building moratorium - Ward 2
	10/12	Appendix C	Rezone: District #7 - Magnolia
	10/12	Section VI	Definitions: Building Height
	10/26	5.5.4	Lowland Requirements
	12/07	Appendix C	Rezone: Woodbury Street area
2000	05/03	Appendix B, I	West Gloucester Interim Planning Overlay District
	06/20	5.14	Assisted Living Facilities
	06/20	5.7	Major Projects
	06/20	2.3.1	Residential Use
	08/29	1.3.3 (a)	Procedures to Obtain Permits
	08/29	1.3.4	Drainage and Grading Requirements
2001	08/21	Appendix C	Rezone: District-GI to R-4, Map 32, Lots 20, 21, 24, 25
	10/09	1.4.2.2(b)	City Council Special Permits
	11/27	3.1.8	Term usage - "building", MGL Ch. 41, Sec. 81L
	12/11	Section VI	Definitions: Dwelling: Two-Family
2002	01/22	2.4.3 (a & b)	Non-Conforming User
	01/22	3.2 ftnotes (k & l)	Intensity of Use Schedule Footnotes